908

THE ACTS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

FOR THE YEAR

GOVT OF INDIA LIBRARY

1859,

(IN CONTINUATION OF THE ACTS FOR THE PREVIOUS YEARS

WITH

AN ANALYTICAL ABSTRACT PREFIXED TO EACH ACT, AND A COPIOUS INDEX.

(TO BE ANNUALLY CONTINUED.)

BY

WILLIAM THEOBALD, ESQ.

BARRISTER AT LAW AND ADVOCATE OF THE SUPREME COURT, CALCUTTA.

360

BENGAL SECRET LI

CALCUTTA:

THACKER, SPINK & CO., P. S. D'ROZARIO & CO. AND TH

1860.

BENGAL SECRETARIAT LIBRARY

CONTENTS.

TITLES OF ACTS OF 1859.

		Page.
No. 1	An Act for the amendment of the law relating to Merchant Seamen, - - - -	1
2	An Act to amend Act XXX. of 1858 (to provide for the administration of the Estate, and for the payment of the debts of the late Nabob of the Carnatic), - - - -	49
3	An Act for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds, - - - -	53
4	A Bill to make further provision for the removal of Prisoners, - - - -	57
5	An Act to empower the holders of Ghatwalee lands in the District of Beerbhoom to grant leases extending beyond the period of their own possession, - - - -	58
6	An Act to empower the Governor of Bombay in Council to appoint a Magistrate for certain Districts within the Zillah Ahamedabad, - -	59
7	An Act to alter the Duties of Customs on goods imported or exported by sea, - -	61
8	An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter, - - - - -	65
9	An Act to provide for the adjudication of claims to property seized as forfeited, - -	180
10	An Act to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal, - - - -	
11	An Act to improve the law relating to sales of Lan for arrears of Revenue in the Lower Provi under the Bengal Presidency, -	
12	An Act to make better provision for the Pilots at the Presidency of Fort W Bengal for breach of duty, -	
13	An Act to provide for the punishme of contract by Artificers, Work ers in certain cases, -	
14	An Act to provide for the Lir	

Page.

No. 15 An Act for granting exclusive privileges to Inventors, - - - - - 288

16 An Act to explain Act XXX. of 1858 (to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic,) - - - - 307

17 An Act to amend the law for the realization of Revenue from Abkaree in the Island of Bombay, - 308

18 An Act to amend the law relating to offences declared to be punishable on conviction before a Magistrate, - - - - 311

19 An Act to continue in force until the end of the year 1859 Act XXVIII. of 1857 (relating to the importation, manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same,) - - - 313

20 An Act for the suppression of Outrages in the District of Malabar in the Presidency of Fort St. George, - - - - *ib.*

21 An Act for providing for the exercise of certain powers by the Governor General during his absence from his Council, - - - 318

22 An Act to amend Act I. of 1852 (for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay,) - 319

23 An Act to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively, - - - 321

24 An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George, - - - - 322

25 An Act to prevent the over-crowding of Vessels carrying Native Passengers in the Bay of Bengal, - 342

26 An Act to continue in force for a further period Act XXVIII. of 1857, - - - 348

27 An Act to continue in force for a further period Acts XIV. of 1857, XVI. of 1857, and XVII. of 1857, - - - - 349

An Act to revive and continue in force for a further period Act XXXIII. of 1857 (to make further provision relating to Foreigners), - 350

INDEX.

ABKAREE.—*(Island of Bombay.)*
Act to amend the Law relating to, 308.
Abkaree revenue to be managed khas or farmed, 309.
Collector may make rules respecting, 310.
Trade, prohibited except with license, 309.
ABKAREE REGULATIONS.—*(Island of Bombay)*
Manufacture of Spirits from certain things prohibited, 309.
prohibited except with license, *ib.*
ACTS OF THE LEGISLATIVE COUNCIL, *repealed, amended, explained, applied, extended and continued.*
19, 1835, excepted, 176.
14, 1836, sched. A. & B. repealed except as to Salt and Opium, 61.
16, 1838, modified as respects period of limitation, 280.
1, 1839, repealed, 192.
4, 1840, modified as respects period of limitation, 280.
15, 1840, excepted, 175.
10, 1841, applied, 7, 42.
" " excepted, 8.
11, 1841, suspended under circumstances, 54.
" " applied, 55.
20, 1841, applied, 25.
13, 1842, excepted, 176.
7, 1843, ss. 39. 40, repealed, 342.
12, 1843, extended, 182.
6, 1844, applied, 321.
" " s. 6, repealed except as to salt and opium, 321.
" " schedules A & B., repealed exe. as to salt and opium, 61.
1, 1845, s. 26 partially repealed, 193.
" " repealed, 245,
9, " Sched. A. and B. repealed exe. as to salt and opium, 61.
24, " repealed, 269.
10, 1846, repealed, 192.
6, 1848, reserved, 62.
7, " " *ib.*
8, " repealed. 192.
9, 1850, applied, 121.
19, " applied, 5.
27, " repealed, 4.
28, " " *ib.*
1, 1851, repealed, 269.
1, 1852, s. 20. and Schedule, repealed, exe as to salt duty, 319.
" " Schedules, A. and B. repealed exe. as to salt and opium, 61.
23, 1854, repealed, 314.
30, " ss. 2, 3, 4, partially repealed, 61.
5, 1856, repealed, 314.
14, 1857, interpreted, 185.
16, " " *ib.*
28, " continued, 313.
29, " s. 2, repealed except as to salt and opium, 321.
" " applied, 322.

ACTS OF THE LEGISLATIVE COUNCIL, *repealed, &c.*
30, 1858, amended, 50
,, ,, explained, 307.
,, 1859, extended, 321.
8, ,, extended, 182.—*See Regulations.*
AHMEDABAD.—(*Bombay*)
Magistrate for certain parts of, may be appointed, 59.
ARMS AND AMMUNITION—
Act 28, 1857 relating to, continued, 313, and further continued.
ARTIFICERS, WORKMEN AND LABOURERS.—(*Presidency Towns.*)
Act relating to breaches of contract, 275.
Liable to penalty by, on breach of contract, after receiving advance, *ib.*, *et seq.*
May be required to give security to perform contract, 276.
BEERBHOOM.—*See Ghatwalee Lands.*
CANTONMENT JOINT MAGISTRATES.
Act for confining Civil Jurisdiction on, 53.
constituting them Registrars of deed, *ib.*
May be invested with Civil Jurisdiction executive by Governments, 54.
Civil Jurisdiction of to supersede Military Court of request, *ib.*
to be exclusive in what cases. *ib.*
Registered Bazarmen alone to recover before, 55.
May be appointed Registrar of deeds, 56.
CARNATIC, NABOB OF.—*See Nabob of the Carnatic.*
CERTIFICATE OF COMPETENCY AND SEA SERVICE.—(*Merchant Seamen.*)
As to Differences between, where for foreign going and home trade ships, 8.
To be made in duplicate, *ib.*
If lost, copy to be given, *ib.*
CIVIL JUDICATURE NOT ESTABLISHED BY ROYAL CHARTER.
Act for simplifying procedure of, 72.—*See Civil Procedure.*
CIVIL PROCEDURE, CODE OF.
Act for simplifying, 72.
Rules to define the jurisdiction of the Courts, *ib.*
Preliminary rules of, 75.
As to agents, attornies, and appearances, *ib et seq.*
institution of suits, 78 *et seq.*
plaints and proceedings on them, *ib.*
plaints at suit of parties abroad, 81.
filing documents with plaint, 82.
summoning the defendant, 83.
appearance of the defendant, *ib.*
service of Summons on defendant, 84.
appointment of agent to receive service, 85.
duty of person serving, *ib.*
substituted service, 86.
service out of the Jurisdiction, *ib. et seq.*
in case of suit for immovable property, 87.
on Government Servants, *ib.*
on a corporation or Company, 88.
by letter, when, *ib.* and how to be made, *ib.*
suits against Government and Police Officers, 89 *et seq.*
making persons not before the Court parties, 90.
arrest before Judgment, *ib. et seq.*
attachment before Judgment, 92.
injunctions, 95.
withdrawal and adjustment of suits, 97.
death, marriage and bankruptcy of parties, 98.
appearance and non appearance of parties, 101.
tendering written statements at heading, 104.
examination of parties, 106.

CIVIL PROCEDURE, CODE OF, (*Continued*).
As to production of documents, 106.
settlement of issues, 109.
issues by agreement of parties, 110.
disposal of suit at first hearing, 111.
adjournments, *ib.*
summoning of witnesses, 112.
service of summons on witnesses, 114.
attendance and non-attendance of witnesses, 117.
examination of witnesses, 118.
commissions to examine witnesses and make local enquiries, 120.
judgment and decree, 124.
execution of decree, 127.
application for execution, 129.
execution on decrees more than a year old, 131.
issue of the warrant, 133.
execution of decrees for immovable property, 133.
money to attachment of property, 136.
counter claims to attached property, 140.
sales in execution of decree for money, 141.
arrest in execution of decree for money, 147.
execution of decree by imprisonment, 149.
out of the Jurisdiction, 151.
pauper suits, 154.
reference to arbitration, 157.
court by agreement, 161.
appeals, 162.
mode of preferring appeals, 163.
procedure on appeals, 165.
appeals from order, 170.
in forma pauperis, 171.
special appeals, 172.
review of judgment, 173.
making rules of practice, 174.
COLLECTORS, (BENGAL)—*See suits under Act X.* 1859.
What suits between Zemindars and Ryots shall be cognizable by, 198 *et seq.*
May depute power to Deputy Collectors, 233.
As to time for appealing from orders of, 234.
appeals from, 236.
CONTRACTS—*See Artificers, Workmen and Labourers.*
CONVICTS.—
Act relating to removal of certain descriptions of, 57.
May be extradited, 57.
CREWS.—*See Merchant Seamen.*
CUSTOMS DUTIES.
Act to alter import and export duties, 61.
What they shall be, 63 *et seq.*
By whom to be paid, on goods to arrive, 62.
CUSTOMS ON SALT, (*Bombay*).—*See Land Customs.*
Import duties repealed, 319, and new rate of duty substituted, 320.
EUROPEAN BRITISH SUBJECTS.—
Law relating to, interpreted in regard to power of Magistrates, 312.
FOREIGNERS. Act to continue XXVIII., 1859, 350.
FORFEITED PROPERTY.—*See Property seized as forfeited.*
GHATWALEE LANDS IN BEERBHOOM.—
Act for enlarging power of holders of, 58.
Holders of, may lease for longer than their own term, for certain purposes, *ib.*
GOVERNOR GENERAL.—
Act to provide for exercise of powers during his absence from Council, 318.

INVENTIONS, (PATENT LAW.)—*See Inventors.*
Specification of, rules respecting, 292 *et seq.*
Registry of patent proceedings to be kept, 293.
For what kinds of, privilege not to be granted, 294.
Importers of, not entitled to patent, *ib.*
What shall be deemed new, 295 *et seq.*
On what ground patents for, may be set aside, 298.
In what manner patents for, may be set aside, 299 *et seq.*
INVENTORS.—
Act for granting exclusive privileges to, 290.
As to the obtaining order for filing specification, 291.
To have privilege for 14 years, *ib.*
Privilege of, may be extended with conditions, 292.
As to method of obtaining patent, 291 *et seq.*
Penal consequences for false statements by, 292.
Fees payable by, 293.
Foreigners may have patent, 295.
Importers, may not, *ib.*
Remedies of, for infringement of privilege, 297.
LAND CUSTOMS. (*Madras and Bombay.*)
Act to alter the rates payable on land frontier, 321.
LIMITATION OF SUITS.
Act to provide periods for, 276 *et seq.*
As to pre-emption suits, 279,
suits for damages, *ib.*
to set aside sales under decrees, *ib.*
attachments, 280.
summary decisions, *ib.*
to contest awards, *ib.*
to recover property comprised in order under Act XVI. 1838 s. 1 c. 2, and Act IV. 1840, *ib.*
for goods sold by retail, *ib.*
money lent where no written contract, 281.
contract is in writing, *ib.*
in cases governed by English Law on debts and obligations of record and specially, *ib.*
for recovery of immovable property, *ib.*
between sharers of joint family property and maintenance, *ib.*
to resume or assess rent for land, 282.
periods of 60 and 30 years established for what cases, *ib.*
general period of six years established for all cases not especially provided for, *ib.*
in suits against trustees, *ib.* no limitation, *ib.*
existing period to be continued, if shorter than under this Act, 283.
As to effect of written acknowledgment on period of limitation, 283.
computation of time in regard to, *ib. et seq.*
when cause of action has been fraudulently concealed, 284 *et seq.*
when party entitled is under disability, 285.
when party entitled is abroad, *ib.*
period of, certain cases excepted from, 286.
in regard to Judgments of Queen's Courts, *ib.*
under Act X. 1859, 202 *et seq, et seq.*
MALABAR, (*Moplas.*)
Liable to be proclaimed, for purpose of enforcing a special law against the Moplas, 314 *et seq.*
MASTERS AND MATES—*See Merchant Shipping Act.*
As to examinations and Certificates of, 6.
Fees to be paid by for Certificates, *ib.*
When entitled to certificate of service, 7, and what it shall contain, *ib.*
No ship of certain burden to go to sea without two certificated officers, *ib.*

MERCHANT SEAMEN—
Act for amendment of the law relating to, 3 *et seq.*
Previous Acts relating to, repealed, 4.
As to Shipping Offices for, 4.
engagements with, for service, 8 *et seq.*
to be read over to, 13.
allotment of wages of, 17.
discharge of, *ib. et seq.*
legal right of, to wages, 21 *et seq.*
recovering wages by, 3 *et seq.*
wages and effects of deceased seamen, 24 *et seq.*
power of making complaints, 29 *et seq.*
protection of, from imposition, 30.
discipline of, 31 *et seq.*
deduction of wages, 49.
MERCHANT SHIPPING ACT.
Regulations as to shipping offices, 4 *et seq.*
examinations and certificates of masters and mates, 6 *et seq.*
engagement of seamen, 8 *et seq.*
allotment of wages, 17 *et seq.*
discharge and payment of wages, 18 *et seq.*
legal right to wages, 21 *et seq.*
mode of recovering wages, 23 *et seq.*
wages and effects of deceased seamen, 24 *et seq.*
provisions, health and accommodation, 26 *et seq.*
power of making complaints, 29 *et seq.*
protection of seamen from imposition, 30 *et seq.*
discipline, 31 *et seq.*
inquiries into wrecks, 41 *et seq.*
official logs, 42 *et seq.*
fees of shipping offices, 49.
deduction of wages, *ib.*
MOPLAS OF MALABAR.
Acts relating to, repealed, 314.—*See Malabar.*
Law relating to, may be brought into operation by proclamation, *ib.*
Liable to what consequences for specified offences, *ib. et seq.*
As to Jurisdiction of magistrate in regard to, 316.
NABOB OF THE CARNATIC.
Act to amend Act XXX. 1858, 50.
explain former Act, 307.
NATIVE PASSENGER VESSELS IN THE BAY OF BENGAL.
Act to prevent the over-crowding of, 343.
Number of passengers in unlicensed vessel, regulated, *ib.*
licensed vessel regulated, *ib.*
Vessels to which regulation shall not apply, *ib.*
As to liabilities of Tindal, &c. infringing the law, 344.
Government may appoint ports for shipping passengers, *ib.*
As to the grant of Licenses, 345.
penalties on Tindals for infringement of conditions of licences, 346 *et seq.*
Vessels coming with more than the regulated number into any port, *ib.*
OFFICERS OF POLICE—(*Madras*)
Appointment and dismissal of, provided for, 327.
On appointment, entitled to certificate, *ib.*
Police Superannuation Fund, provided for, *ib. et seq.*
how to be raised, *ib.*
Duties of, 330.
Powers of, *ib. et seq.*
As to taking bail or recognizance, 332.
entering drinking shops, &c., 333.
To be Inspector of weights and measures, *ib.*
Not to receive complaints of petty offences, 334.

OFFICERS OF POLICE—*(Madras Continued.)*
Empowered to lay informations, 334.
regulate processions, &c. 339.
PASSENGER VESSELS—*See Native Passenger Vessels in Bay of Bengal.*
PATENT, *infringement of.—See Inventions. Inventors.*
Remedies for, 297, 302.
What defences may be made in action for, *ib.*
As to direct proceedings to set aside patent, *ib. et seq.*
PILOTS. *(Bengal.)—See Pilot Courts.*
Act relating to the trial of, 268 *et seq.*
When to be brought to trial, 269.
Court for trial of, to be established, *ib.*
judge of, to be appointed by Lieut. Governor, 270.
On trial of, Government to appoint a prosecutor, *ib.*
To be tried by jury, *ib.*
PILOT COURT. *(Bengal)*
Lieut. Governor may establish, 269.
Jury of, how to be constituted, 270.
As to precedence of, *ib et seq.*
Jury of, to be sworn, 272
As to taking evidence, *ib.*
verdict of jury, *ib.*
Sentence of Court, 273.
Sentence of, not to be caried out till confirmed. *ib.*
may be deferred if judge disapprove the verdict, 274.
POLICE, *(Madras.)*
Act for the better regulation of, 324.
Superintendence of, provided for, 325.
Local administration of, provided for. *ib. et seq.*
Inspector General of, provided for, 326.
authorized to make rules, *ib. et seq.*
Appointment of officers of, provided for, 327.
Special employment of, provided for, 328 *et seq.*
General Police Fund, provided for, *ib. et seq.*
Special Police Officers, appointment of, provided for, 329.
Unlawful personation of, made punishable, 330.
Rules as to process of, 334 *et seq.*
As to offences by, 336 *et seq.*
offences against, 338 *et seq.*
POLICE OFFICERS.—*See Officers of Police.*
POLICE PROCESS. *(Madras)*
Rules respecting it, 334 *et seq.*
PRISONERS, *before Committal (Madras)*
As to powers of police over, 332.
remand of, by magistrate, 333
PRISONERS.—*See Convicts.*
PROCEDURE—*See Suits under Act X. 1859.*
PROPERTY SEIZED AS FORFEITED—*See special Commission.*
Act to provide for adjudication of claims to, 180.
Owner of, to surrender within a year, or seizure absolute, 184.
REGISTRARS OF DEEDS.—
Cantonment Joint Magistrate may be, 53.
REGISTRATION OF UNDERTENURES AND SHARES IN ZEMINDARY, *(Bengal.)*
To be of two kinds, 259 *et seq.*
Effects of in case of sale of Zemindary, 258, 263 *et seq.*
Precedence in regard to, 260, *et seq.*
As to limitation of time for registering, 262.
REGULATIONS *Repealed, extended, excepted, applied, and modified (Bengal.)*
7, 1793, repealed, 191.
8, „ part repealed, 193.
19, „ s. 10 part repealed, 201.

REGULATIONS. *Repealed &c. (Continued.)*
4, 1794, part repealed, 191.
35, 1795, repealed, *ib.*
41, „ s. 10, partially repealed, 201.
45, „ repealed, 191.
51, „ ss. 9 and 10, *ib.*
7, 1799, ss. 1 to 20, repealed, *ib.*
7, „ s. 25, modified, 202.
5, 1800, ss. 1 to 20, repealed, 191.
28, 1803, repealed, *ib.*
30, „ ss. 9 and 10, repealed, *ib.*
30, „ partially repealed, 193.
31, „ s. 6, partially repealed, 201.
2, 1805, s. 4, repealed, 191.
8, „ s. 19, repealed, *ib.*
8, „ s. 21, partially repealed, 201.
12, „ s. 24, partially repealed, *ib.*
5, 1812, ss. 5 to 23, repealed, 191.
29, 1814, partially repealed, 58.
11, 1816, excepted, 175.
19, 1817, ss. 15 and 16, repealed, 192.
20, „ s. 27, repealed, *ib.*
10, 1818, repealed, 245.
8, 1819, applied, 94.
8, „ ss. 18, 19, repealed, 192.
8, „ excepted, 237.
2, 1821, s 4, repealed, 192.
7, 1822, extended, 266.
7, „ as to period of limitation modified, 280.
7, „ s. 22 partially repealed, 192.
24, 1824, repealed, 192.
9, 1825, extended, 266.
9, „ as to period of limitation modified, 280.
8, 1831, repealed, 192.
9, 1833, as to period of limitation modified, 280.
9, „ ss. 14 and 15 partially repealed, 192.
(*Bombay.*)
29, 1827, excepted, 175.
7, 1830, „ *ib.*
13, „ „ *ib.*
1, 1831, „ 176.
16, „ „ *ib.*
10, 1833, repealed, 309.
(*Madras*)
R 9, 1816, s. 36 part repealed, 325.
„ „ s. 42 repealed, *ib.*
11, 1816, ss. 3, 4, 5, 6, 7, 11, 15, 16, 17, 18, 21 to 26, 29, c. 2, 35, 38, 39, 40, 41, 48, 55, repealed, 341.
s. 40, saved 325.
11, 1816, s. 13 c. 4 and s. 27 c. 1, partially repealed, 325.
4, 1821, s. 2 c. 2, partially repealed, 341.
s. 3 repealed. *ib.*
5, 1822, modified, 279, 280.
RENT, *(Bengal) See Ryot.*
Act relating to recovery of, 190 *et seq.*
Rules as to potta, 193 *et seq.*
presumption arising from 20 years, *ib.*
When to be fair and equitable, *ib.*
Abatement of, claimable if land diminishe by diluvion, 197.
When to be considered in arrear, *ib.*
Recoverable by distraint, 222 *et seq.*
Crop hypothecated for, 222.

RENT, *(Bengal) (Continued.)*
Distraint for, how to be carried out, 223.
may be by whom, 224.
sale under, how to be effected, 225.
as to costs of, 227 *et seq.*
RYOTS, *(Bengal) see Rent.*
Entitled, to a pottah, 193.
As to particulars to be contained in pottah, *ib.*
Regulations as to amount of rents, *ib et seq.*
Effects of 12 years' holding on right of, 194 *et seq.*
Bound to give Kuboolyut on tender of proper pottah, *ib.*
Entitled to receipt for rent, 194 *et seq.*
May recover double damages for exaction of more than is due, *ib.*
Not compellable to attend at Zemindary Cutchery, 195.
Rent of, not to be extended without previous notice, *ib.*
May contest claim to enhance rent, 196.
Grounds on which rent of, may be enhanced, *ib.*
May claim abatement of rent, if land is diminished by diluvion, 197.
Entitled to surrender lands by what means, *ib.*
Rent of, when to be considered in arrear, *ib.*
Liable to be ejected, if rent is in arrear, 198.
Land held by, liable to be measured, 199.
SALT. *See Customs on Salt.*
SHARERS IN ZEMINDARY. *(Bengal.)*
May pay their share of revenue separately, 249.
As to consequences of their share of the Jumma being in dispute, 250.
Entitled to have separate accounts kept for their share of jumma, *ib.*
Shares of, if recorded, not to be sold for arrears of revenue, 250.
Shares of, may be sold separately for arrears, *ib.*
As to sale of whole estate, though sharers are not in arrears, 250.
As to right of, to deposit their share of the revenue, 251.
SHIPPING MASTERS FOR MERCHANT SEAMEN.
As to duties of, 5.
fees of, *ib. et* 12.
receiving more than legal fees, 5 *et seq.*
unlicensed persons acting as such, 9.
employment of unlicensed persons as such, 10.
duties of, as to agreements as to discharge of seamen, 12 *et seq.*
SHIPPING OFFICES FOR MERCHANT SEAMEN.—*(See Merchant Shipping Act.)*
To be established, 4.
SPECIAL COMMISSIONS. *(Bengal.)*
May be appointed to adjudicate on property seized as forfeited, 181.
As to constitution of, *ib.*
Jurisdiction of, to be how far exclusive, *ib.*
Suits pending in ordinary Courts, to be transferred to, *ib.*
Where to be held, 182.
As to procedure of, *ib.*
No decision of, to be appealable, 183.
Decrees of, to be enforced by ordinary Courts, *ib.*
As to Custody of records of, 184.
Conviction by, to be final and conclusive, *ib.*
SPECIFICATION.—*See Inventors.*
SPECIAL POLICE OFFICERS, *(Madras)*
Appointment of, provided for, 329.
Their powers, *ib.*
Their duties and liabilities, *ib.*
SPIRITS. *(Bombay) See Abkaree.—Abkaree Regulations.*
Import duty on, shall be what, 320.
STATE OFFENCES —
Act to continue Acts relating to, viz. Acts 14, 16, and 17.

SUITS UNDER ACT X. 1859.
As to procedure in, 203 *et seq.*
Surburakars and Tehsildars may be made parties, 201.
As to limitation of time for suing, 202.
when brought by or against Naibs, Gomastahs, &c., 211.
exemption of female parties from personal attendance, 212.
allowance of interest on money paid into court, 213.
when third parties are interested, *ib.*
for ejectment or cancelment of lease, 214.
decrees in, *ib. et seq.*
sureties in, 215.
execution of decrees in, *ib. et seq.*
decrees in, of more than one year old, 216.
execution against the person, 217.
movable property, 218.
immovable property, 221.
in case of adverse claim, 219.
appeals, *ib.*
irregularities in *ib.*
SURBARAKARS, AND TEHSILDARS.
May be sued as parties representing their principals, 201.
TALOOKDARS. (*Bengal.*)
Having permanent estate, not liable to have their rent enhanced, 196.
Rent of, to be presumed permanent after 20 years, unless contrary appears, *ib.*
To register transfers in the Sherishtas of the Zemindar, 200.
To be dispossessed only by the Collector, 201.
UNDERTENURES, *in Zemindary*, (*Bengal.*)
As to effect of sale of Zemindary upon, 258 *et seq.*
May be registered, *ib.*
As to registration of, 259 *et seq.*
WORDS MAGISTRATE AND JUSTICE.
Act relating to meaning of, 311.
ZEMINDAR AND RYOT.—*See Rent recovery of Ryot's Shares.*
Regulations and Acts relating to, repealed, 191, and new regulations established, *ib.*
ZEMINDARY LAND REVENUE, (*Bengal.*)
Act for amending the law relating to, 241 *et seq.*
What shall be arrear of, 245.
For what arrears of estate may be sold, *ib.*
In Sylhet arrears of, may be recovered by sale of personal property, 246.
Arrears of, distinguished into different kinds and differences in procedure in regard to, prescribed, 247 *et seq.*
Sales for arrears of, to be notified, *ib.*
notice of, to be given to ryots, *ib.*
counter claim of defaulter against government, not to bar sales, 248.
As to deposit of, with Collectors, to prevent sale of Zemindary, 250 *et seq.*
As to sale for arrears of, if estate is under Court of Wards &c. 252.
Sales for arrears of, by whom, where, and how to be made, *ib. et seq.*
As to duties of auction purchaser of estate, 253 *et seq.*
Arrears of, may be deposited by person having a lien on Zemindary, to prevent sale, 248.
Recorded sharers may pay their shares separately, 249.
ZEMINDARY REVENUE SALE.—
Act for amending law relating to, 241 *et seq.*
By whom, where, and how to be made, 252 *et seq.*
Auction purchasers at, their obligations, 253.
Purchaser at, entitled to certificate of title, 255.
entitled to order for possession, 256.
liable for revenue from what date, *ib.*

ZEMINDARY REVENUE SALE —
Purchase money, how to be applied. 256
How to be annulled, 256 *et seq.*
As to grounds for annulment of, 257.
effect of annulment of, *ib.*
Benamy purchasers to have no title against certified purchaser, 258.
Effect of, in regard to encumbrances, *ib.*
Not to annul certain specified tenures, *ib.*

BENGAL SECRETARIAT LIBRARY

MERCHANT SEAMEN.

ACT No. I. OF 1859.

[*Passed on the 25th January*, 1859.

Recites that the Registry Law is ineffective; also Merchant Shipping Act of Parliament of 1854, and expediency of applying it to India.

1. Repeals Acts XXVII. and XXVIII. of 1850.

2—8. SHIPPING OFFICES.—(2) Shipping Office to be established with Shipping Master; (3) who is to be appointed &c. by local Government; (4) his business to superintend &c. engagement &c. of Seamen and to assist in appointing boys to Sea Service; (5) to be paid what fees, and (6) by whom, (7) and liable to penalty for taking other reward. (8) His Office may be at Custom House.

9—17. EXAMINATIONS AND CERTIFICATES OF MASTERS AND MATES.—(9) Examinations to be instituted for Masters and Mates of foreign-going Ships &c. (10) Examiners to be appointed, with rules; (11) on their report Certificates to be issued; (12) Certificates of Service to be given to what Masters; (13) specified ships not to go to Sea without Certificate of Master; (14) different grades of Certificates. (15) Certificates to be in duplicate; (16) if lost copy may be given; (17) but not to be given to Arab Ships, &c.

18—35. ENGAGEMENT OF SEAMEN.—(18) Government may license hirers of Seamen; (19) Penalties on unlicensed persons hiring or employing them, and on receiving Seamen illegally supplied, (20) Penalty on taking illegal remuneration. (21) Master to enter into specified agreement, except in case of pre-existing agreement; (22) rules respecting agreements for foreign-going ships for which (23) Master may have running agreement; (24) regulations respecting them; and (25) fees payable on them. (26) Home trade ships of certain tonnage may have foreign voyage agreements, (27) Owner of several ships may agree for service in any of them. (28) Penalty for taking seamen to sea without agreement, (29) change in crew to be reported. (30) Shipping master may board ship and muster crew. (31) Rules respecting production of agreements in case of foreign-going ships and (32) in case of home trade ships. (33) Alterations in agreements void unless attested; (34) copy of agreement to be open to crew; and (35) crew prematurely discharged to be entitled to compensation.

36—37. ADVANCES.—(36) Advance to be only of a month's wages and only to the seaman, and (37) contrariwise not to go as payment.

38—40. ALLOTMENT OF WAGES.—(38) Allotment to be expressed in agreements, and allotment notes given (39) to be paid to Shipping Master and (40) by him over.

41—46. DISCHARGE AND PAYMENT OF WAGES.—(41) Foreign going seamen to be discharged before Shipping Master; (42) to whom account to be previously rendered; and (43) certificates of discharge to be given, &c. (44) Shipping Master may arbitrate on differences and (45) may call for ship's papers &c. (46) Settlement how to be made.

47—54. LEGAL RIGHTS TO WAGES.—(47) When to begin; (48) Secured by lien; (49) not to depend on freight; nor (50) to be lost by death; nor (51) by wreck, &c. of ship, &c. (52); How in case of misconduct, &c. (53) When due and payable; and (54) at what rate of exchange.

55—58. MODE OF RECOVERING WAGES —(55) Recoverable before Magistrate; (56) by distress; (57) in Admiralty Court not under 500 rupees; and (58) Masters to have same remedies as Seamen.

59—63. WAGES AND EFFECTS OF DECEASED SEAMEN.—(59) Statement of, to be entered in Log-book. (60) Effects to be delivered to Shipping Master, &c. (61) Penalty on Master for default. (62) Probate, &c. not necessary. (63) If not claimed in year, to be paid into Public Treasury

64—71. PROVISIONS, HEALTH, AND ACCOMMODATION.—(64) Any 3 of crew may complain to Shipping Master of water, &c. (65) Week's wages forfeited if complaint frivolous. (66) Fixes scale of compensation for bad provisions, &c. (67) Prescribes supply of medicines, and (68) keeping on board weights and measures. (69) Entitles Seamen to Medical attendance. (70) Prescribes space in ship for shelter of Seamen, &c (71) Empowers Shipping Master to inspect these things.

72. COMPLAINTS.—(72) Entitles Seamen to go ashore to make complaints.

73—78. PROTECTION FROM IMPOSITION.—(73). Makes assignment of wages void; and (74) debt exceeding 3 rupees not recoverable, &c. (75) Penalty for overcharge for board &c. and (76) for unlawful detention of effects. (77) Prohibits persons going on board on arrival of ship without leave of Master and (78) solicitation of lodging house keepers.

79—99 DISCIPLINE.—(79) Prescribes punishment on Master &c. for wilful breach &c. of duty and other specified offences endangering loss of ship, &c. (80) Empowers Admiralty Court to remove Master. (81) Authorizes investigation into competency of Master or Mate and report to Government; and (82) Government to cancel &c. Certificates in specified cases. (83) Authorizes summary punishment of seamen for specified offences of nine kinds; (84) Offences to be noted in Log-book, and Log-book to be produced in evidence. (85) Rules of discipline to extend to all seamen whom Master is obliged to take &c. (86) Master &c. may arrest deserters &c. for purpose of bringing them before Court; and (87) Court may send them on board ship &c instead of, to prison, &c. or (88) from prison on board &c (89) Entry in Log of desertion to be sent to ship's port and to be evidence; (90) Prescribes what evidence of desertion shall be sufficient on question of wages. (91) Permits application of wages to costs of prosecution. (92) Wages for desertion to be forfeited *pro rata*, and (93) prescribes application of effects in case of forfeiture. (94) Criminal proceed-

ing not to bar forfeiture. (95) Prescribes penalty for false statements by seamen. (96) Fines stipulated for in agreement to be deducted and paid to Shipping Master, &c. (97) Prescribes penalty on persons persuading seamen to desert, &c. and (98) on persons secreting themselves on board ship, &c. (99) Masters on leaving to deliver ship's papers &c. to successor.

100—102. ENQUIRIES INTO WRECKS.—(100) Describes the cases which Civil Officers are bound to report, and authorizes the local Government to appoint an inquiry into them. (101) Gives powers to persons appointed to inquire, who (102) are to report to Government.

103—110. OFFICIAL LOGS.—(103) Official Log to be kept in prescribed form, in which (104) every entry is to be made immediately after occurrence. (105) Prescribes entry of certain specified matters; and (106) how those entries to be signed. (107) Defines offences in respect of Official Logs and attaches penalties; (108) Mate's entries evidence; (109) Directs delivery of Log to Shipping Master after voyage; and (110) Log to be sent home if ship transferred.

111—118. MISCELLANEOUS.—(111) Makes old depositions evidence in specified cases. (112) All offences punishable by fine may be tried by Magistrate.; (113) Penalties may be levied by distress and sale, &c. (114) Act not to extend to Her Majesty's ships or ships of Foreign States or to Foreign ships. (115) Foreign Ships to engage Seamen after manner prescribed by this Act, and Master and surety to give bond for performance: and (116) same fees payable as by British ships (117) Prescribes penalty on Master of Foreign ship contravening this Act.

(118). Interprets words, "India." "Local Government," "Home-trade ship," "Foreign-going ship," "Master," "Seaman," &c.

Table A. Fees. Table B. Deductions from wages.

An Act for the amendment of the law relating to Merchant Seamen.

Preamble.

Whereas the law for the registry of Seamen and the grant of Register Tickets has been found to be ineffective for the purposes intended; and whereas, by Section CCLXXXVIII. of an Act of the Imperial Parliament called "the Merchant Shipping Act 1854," it is enacted that, "if the Governor General of India in Council, or the respective Legislative Authorities in any British possession abroad, by any Acts, Ordinances, or other appropriate legal means, apply or adapt any of the provisions in the third part of this Act contained to any British ships registered at, trading with, or being at any place within their respective jurisdictions, and to the owners, masters, mates, and crews thereof, such provisions, when so applied and adapted as aforesaid, and as long as they remain in force, shall, in respect of the ships and persons to which the same

are applied, be enforced, and penalties and punishments for the breach thereof shall be recovered and inflicted throughout Her Majesty's dominions: in the same manner as if such provisions had been hereby so adapted and applied, and such penalties and punishments had been hereby expressly imposed." And Whereas it is expedient to discontinue the practice of registry and the grant of register Tickets, and to apply to ships registered at, trading with, or being at any Port or place in India, certain provisions of the third part of the said Act with such adaptations and modifications as are required, and for the purposes aforesaid to repeal the laws now in force in India relating to Merchant Seamen: It is enacted as follows:—

Acts repealed.

I. Act XXVII. of 1850 entitled "An Act for the registry of Merchant Seamen," and Act XXVIII. of 1850 entitled "An Act for the encouragement of Merchant Seamen," are hereby repealed, except as to acts done and agreements made before the passing of this Act.

SHIPPING OFFICES.

Shipping Offices.

II. A Shipping Office shall be established at each of the Ports of Calcutta Madras, and Bombay, and at such other Ports as the Governor General of India in Council shall hereafter deem necessary. For every such Office there shall be a Superintendent, to be called a "Shipping Master," with such necessary Deputies, Clerks, and Servants, at such salaries, and subject to such regulations, as the local Government shall from time to time, with the sanction of the Governor General of India in Council, direct and appoint. Every act done by or before any Deputy duly appointed shall have the same effect as if done by or before a Shipping Master.

Appointment, removal, and control of Shipping Masters and Deputies.

III. The local Government shall have power to appoint and remove such Shipping Masters and Deputies; who shall respectively be subject to the control of that Government or of any intermediate authority which it may appoint.

Business of Shipping Masters.

IV. It shall be the general business of the Shipping Masters appointed under this Act, to superintend and facilitate the engagement and discharge of seamen in manner hereinafter mentioned, to

provide means for securing the presence on board at the proper times of men who are so engaged, and to perform such other duties relating to Merchant Seamen and Merchant Ships as are hereby or under the said Merchant Shipping Act 1854, or as may hereafter under the powers herein contained, be committed to them. It shall also be the duty of Shipping Masters to give to all persons desirous of apprenticing boys to the sea-service, and duly authorized so to do by Act XIX. of 1850 (concerning the binding of apprentices), and also to masters and owners of ships requiring apprentices, such assistance as may be in their power for facilitating the making of such apprenticeships.

Fees to be paid upon engagements and discharges.

V. Such fees, not exceeding the sums specified in the Table marked (A) in the Schedule to this Act, as are from time to time fixed by the local Government, shall be payable upon all engagements and discharges effected before Shipping Masters as hereinafter mentioned. Scales of the fees payable for the time being shall be conspicuously placed in the Shipping Offices; and all Shipping Masters, their Deputies, Clerks, and Servants, may refuse to proceed with any engagement unless the fees payable thereon are first paid.

Fees by whom to be paid, &c.

VI. Every owner or master of a ship engaging or discharging any seamen in a Shipping Office or before a Shipping Master, shall pay to the Shipping Master the whole of the fees hereby made payable in respect of such engagement or discharge, and may, for the purpose of in part reimbursing himself, deduct in respect of each such engagement or discharge from the wages of all persons (except apprentices) so engaged or discharged, retain, any sums not exceeding the sums specified in that behalf in the Table marked (B) in the Schedule hereto. Provided that, if in any cases the sums which the owner is so entitled to deduct, exceed the amount of the fee payable by him, such excess shall be paid by him to the Shipping Master in addition to such fee.

Penalty on Shipping Master taking other remuneration.

VII. Any Shipping Master, Deputy Shipping Master, or any Clerk or Servant in any Shipping Office, who demands or receives any remuneration whatever, either directly or indirectly, for hiring or supplying any seamen for any merchant ship, excepting the

lawful fees payable under this Act, shall for every such offence incur a penalty not exceeding two hundred Rupees, and shall also be dismissed from his office.

Business of Shipping Office may be transacted at Custom House or elsewhere.

VIII. The local Government may direct that, at any place at which no separate Shipping Office is established, the whole or any part of the business of the Shipping Office shall be conducted at the Custom House, or at the Office of the Master Attendant or Harbour Master, or at such other Office as the Government shall direct, and thereupon the same shall be there conducted accordingly; and in respect of such business such Custom House or Office as aforesaid shall for all purposes be deemed to be a Shipping Office, and the Officer of Customs or other Officer there, to whom such business is committed, shall for all purposes be deemed to be a Shipping Master within the meaning of this Act.

EXAMINATIONS AND CERTIFICATES OF MASTERS AND MATES.

Examinations.

IX. Examinations shall be instituted for persons who intend to become Masters or Mates of Foreign-going ships or of Home-trade ships of a burden exceeding three hundred tons, or who wish to procure certificates of competency hereinafter mentioned.

Local Government to appoint examiners.

X. The local Government or any Board or Officer duly authorized by the local Government in that behalf shall from time to time nominate two or more competent persons for the purpose of examining the qualifications of the applicants for examination.

Rules for conduct of examination.

The local Government may, with the sanction of the Governor General of India in Council, make rules for the conduct of such examinations and as to the qualifications to be required; and such rules shall be strictly adhered to by all examiners.

Fees.

Fees at the following rates shall be paid by all applicants for examination :—

For a certificate as Master	...	10 Rupees.
Ditto Ditto as Mate	..	5 „

Certificates of competency.

XI. The local Government or such Board or Officer as aforesaid shall deliver to every applicant who is reported by the examiners to have passed the

examination satisfactorily, and to have given satisfactory evidence of his sobriety, experience, ability, and general good conduct on board-ship, a certificate (hereinafter called a "certificate of competency") to the effect that he is competent to act as master or mate of a Foreign-going ship or of a Home-trade ship of a burden exceeding three hundred tons, as the case may be.

Certificates of service.

XII. Certificates of service differing in form from Certificates of competency shall be granted as follows, (that is to say)—

1.—Every person who before the passing of this Act has served as Master in the British Merchant Service or as Master of any Foreign-going ship registered under Act X. of 1841, or who has attained or shall attain the rank of Lieutenant, Master, passed Mate, or second Mate, or any higher rank, in the service of Her Majesty or of the East India Company, shall be entitled to a Certificate of service as Master for Foreign-going ships.

2.—Every person who before the passing of this Act has served as Mate in the British Merchant Service or as Mate of any such ship as aforesaid shall be entitled to a Certificate of service as Mate for Foreign-going ships.

3.—Every person who before the passing of this Act has served as Master or Mate of a Home-trade ship of a burden exceeding three hundred tons, shall be entitled to a Certificate of service as Master or Mate (according to such previous service) for such Home-trade ships.

And each of such Certificates of service shall contain particulars of the name and of the length and nature of the previous service of the person to whom it is delivered; and the local Government or such other authority as aforesaid shall deliver such certificates of service to the various persons so respectively entitled thereto upon their proving themselves to have attained such rank or to have served as aforesaid, and upon their giving a full and satisfactory account of the particulars aforesaid.

No Foreign-going ship and no Home-trade ship above 300 tons to go to sea without certificate of Master, &c.

XIII. No Foreign-going ship or Home-trade ship of a burden exceeding three hundred tons shall go to sea from any Port in India unless the Master and one Officer besides the Master have obtained and possess valid and appropriate Certificates either of competency or service under this Act or under the Merchant Shipping Act 1854; and whoever,

having been engaged to serve as Master or Mate, goes to sea as aforesaid as such Master or Mate without being at the time entitled to and possessed of such a Certificate as hereinbefore required, and whoever employs any person as such Master or Mate without ascertaining that he is at the time entitled to and possessed of such certificate, shall for each such offence be liable to a penalty of five hundred Rupees.

Certificates for Foreign-going ships available for Home-trade ships.

XIV. Every Certificate of competency for a Foreign-going ship shall be deemed to be of a higher grade than the corresponding Certificate for a Home-trade ship, and shall entitle the lawful holder thereof to go to sea in the corresponding grade in such last mentioned ship; but no certificate for a Home-trade ship shall entitle the holder to go to sea as Master or Mate of a Foreign-going ship.

Record of grants; cancellations, &c. of Certificates.

XV. All Certificates, whether of competency or service, shall be made in duplicate; and one part shall be delivered to the person entitled to the Certificate, and the other shall be kept and recorded as the local Government shall direct. A note of all orders made for cancelling, suspending, altering, or otherwise affecting any Certificate in pursuance of the powers herein contained, shall be entered in the record of Certificates.

Loss of Certificate.

XVI. Whenever any Master or Mate proves to the satisfaction of the local Government or such other authority as aforesaid that he has, without fault on his part, lost or been deprived of any Certificate already granted to him, a copy of the Certificate to which by the record so kept as aforesaid he appears to be entitled, shall be delivered to him, and shall have all the effect of the original.

Foregoing provisions not to apply to ships registered under Act X of 1841, navigated by Asiatic seamen and trading between Indian and Arabian Ports.

XVII. The foregoing Sections, relating to examinations and Certificates of Masters and Mates, shall not apply to ships registered under Act X. of 1841, and trading between Ports in India and the Coast of Arabia, when such ships are navigated and manned exclusively by Arabs, Lascars, or other Asiatic Masters and Seamen.

Engagement of Seamen.

XVIII. The local Government, or any Board or Officer duly

Licenses to procure seamen.

authorized by the local Government in that behalf, may grant to such persons as may be deemed fit, licenses to engage or supply seamen for merchant ships, to continue for such periods, to be upon such terms, and to be revocable upon such conditions as the Government thinks proper.

XIX. The following offences shall be punishable as hereinafter mentioned; (that is to say)—

Penalties.

(1.) If any person not licensed as aforesaid, other than the Owner or Master or Mate of the ship, or some person who is *bonâ fide* the servant and in the constant employ of the Owner, or a Shipping Master duly appointed as aforesaid, engages or supplies any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied incur a penalty not exceeding one hundred Rupees.

For supplying seamen without license.

(2.) If any person employs any unlicensed person, other than persons so excepted as aforesaid, for the purpose of engaging or supplying any seaman to be entered on board any ship, he shall for each seaman so engaged or supplied incur a penalty not exceeding one hundred Rupees, and, if licensed, shall in addition forfeit his license.

For employing unlicensed persons.

(3.) If any person knowingly receives or accepts to be entered on board any ship any seaman who has been engaged or supplied contrary to the provisions of this Act, he shall for every seaman so engaged or supplied incur a penalty not exceeding one hundred Rupees.

For receiving seamen illegally supplied.

XX. If any person demands or receives, either directly or indirectly, from any seaman, or from any person seeking employment as a seaman, or from any person on his behalf, any remuneration whatever, other than the fees hereby authorized, for providing him with employment, he shall for every such offence incur a penalty not exceeding fifty Rupees, and, if licensed as aforesaid, shall in addition forfeit his license.

Penalty for receiving remuneration from seamen for shipping them

XXI. The Master of every ship, except ships of a burden not exceeding three hundred tons employed only in the Home-trade, shall enter into an agreement with every seaman whom he carries to sea from any Port in India as one of his crew, in the manner

Agreements with seamen.

hereinafter mentioned; and every such agreement shall be in a form sanctioned by the Governor General of India in Council, and shall be dated at the time of the first signature thereof, and shall be signed by the Master before any seaman signs the same, and shall contain the following particulars as terms thereof; (that is to say)—

1.—The nature, and as far as practicable, the duration of the intended voyage or engagement.

2.—The number and description of the crew, specifying how many are engaged as sailors.

3.—The time at which each seaman is to be on board or to begin work.

4.—The capacity in which each seaman is to serve.

5.—The amount of wages which each seaman is to receive.

6.—A scale of the provisions which are to be furnished to each seaman.

7.—Any regulations as to conduct on board, and as to fines, short allowance of provisions, or other lawful punishments for misconduct, which have been sanctioned by the Government as regulations proper to be adopted and which the parties agree to adopt.

And every such agreement shall be so framed as to admit of stipulations, to be adopted at the will of the Master and seaman in each case (not being inconsistent with the provisions of this Act), as to advance of wages and supply of warm clothing, and may contain any other stipulations which are not contrary to law. Provided that, if the master of any ship belonging to the United Kingdom or any British possession has an agreement with his crew made in due form according to the law of the place to which such ship belongs or in which her crew were engaged, and engages single seamen in any Port in India, such seaman may sign the agreement so made, and it shall not be necessary for them to sign an agreement under this Act. Provided also that, in the case of lascars or other native seamen, when it shall be agreed that the service of any such seaman shall end at any Port not in India the agreement shall contain stipulations for providing for such seaman fit employment on board some other vessel bound

Proviso as to forms for British or Colonial ships.

Proviso where lascars are shipped.

to the Port at which he was shipped, or such other Port as may be agreed on, or for providing for him a passage to some such Port as aforesaid free of charge, or on such other terms as may be agreed on; and every such stipulation shall be signed by the Owner of the vessel or by the Master on his behalf.

For Foreign-going ships such agreements, except in special cases to be made before and attested by a Shipping Master.

XXII. In the case of all Foreign-going ships, in whatever part of Her Majesty's Dominions the same are registered, the following rules shall be observed with respect to agreements; (that is to say)-

Agreement to be signed by seaman.

1.—Every agreement made in any Port in India (except in such cases of agreements with substitutes as are hereafter specially provided for) shall be signed by each seaman in the presence of a Shipping Master.

Shipping Master to cause agreement to be explained to seaman.

2.—Such Shipping Master shall cause the agreement to be read over and explained to each seaman, in a language understood by him, or shall otherwise ascertain that each seaman understands the same before he signs it, and shall attest each signature.

To be in duplicate.

3.—When the crew is first engaged the agreement shall be signed in duplicate, and one part shall be retained by the Shipping Master, and the other part shall contain a special place or form for the descriptions and signatures of substitutes or persons engaged subsequently to the first departure of the ship, and shall be delivered to the Master.

Provision for substitutes.

4.—In the case of substitutes engaged in the place of seamen who have duly signed the agreement, and whose services are lost within twenty-four hours of the ship's putting to sea by death, desertion, or other unforeseen cause, the engagement shall, when practicable, be made before some Shipping Master duly appointed in the manner hereinbefore specified; and whenever such last mentioned engagement cannot be so made, the master shall, before the ship puts to sea if practicable, and if not as soon afterwards as possible, cause the agreement to be read over and explained to the seamen; and the seamen shall thereupon sign the same in the presence of a witness, who shall attest their signatures.

Foreign-going ships making short voyages may have running agreements.

XXIII. In the case of Foreign-going ships making voyages averaging less than six months in duration, running agreements with the crew may be made to extend over two or more voyages, so that no such agreement shall extend beyond the next following 30th day of June or 31st day of December, or the first arrival of the ship at her Port of destination in India after such date, or the discharge of cargo consequent upon such arrival; and every person entering into such agreement, whether engaged upon the first commencement thereof or otherwise, shall enter into and sign the same in the manner hereby required for other Foreign-going ships; and every person engaged thereunder, if discharged in any Port in India, shall be discharged in the manner hereby required for the discharge of seamen belonging to other Foreign-going ships.

Engagement and discharge of seamen in the meantime.

XXIV. The master of every Foreign-going ship for which such a running agreement as aforesaid is made shall, upon every return to any Port in India before the final termination of the agreement, discharge or engage before the Shipping Master at such Port any seaman whom he is required by law so to discharge or engage; and shall upon every such return endorse on the agreement a statement (as the case may be) either that no such discharges or engagements have been made or are intended to be made before the ship again leaves Port, or that all such discharges or engagements have been duly made as hereinbefore required; and shall deliver the agreement so endorsed to the Shipping Master; and any Master who wilfully makes a false statement in such endorsement shall incur a penalty not exceeding two hundred Rupees; and the Shipping Master shall also sign an endorsement on the agreement to the effect that the provisions of this Act relating to such agreement have been complied with and shall re-deliver the agreement so endorsed to the Master.

Fees to be paid on such running agreements.

XXV. For the purpose of determining the fees to be paid upon the engagement and discharge of seamen belonging to Foreign-going ships which have running agreements as aforesaid, the crew shall be considered to be engaged when the agreement is first signed and to be discharged when the agreement finally terminates; and all intermediate engagements and discharges

shall be considered to be engagements and discharges of single seamen.

In Home-trade ships agreement to be entered into before a Shipping Master or other witness.

XXVI. In the case of Home-trade ships of a burthen exceeding three hundred tons, crews on single seamen may, if the Master thinks fit, be engaged before a Shipping Master in the manner hereinbefore directed with respect to Foreign-going ships; and in every case in which the engagement is not so made, the Master shall, before the ship puts to sea if practicable, and if not, as soon afterwards as possible, cause the agreement to be read over and explained to each seaman, and the seaman shall thereupon sign the same in the presence of a witness, who shall attest his signature.

Special agreements for Home-trade ships belonging to same Owner.

XXVII. In cases where several Home-trade ships belong to the same Owner, the agreement with the seamen may, notwithstanding any thing herein contained, be made by the Owner instead of by the Master, and the seamen may be engaged to serve in any two or more of such ships provided that the names of the ships and the nature of the service are specified in the agreement; but, with the foregoing exception, all provisions herein contained which relate to ordinary agreements for Home-trade ships shall be applicable to agreements made in pursuance of this Section.

Penalty for shipping seamen without agreement duly executed.

XXVIII. If in any case a Master carries any seaman to sea without entering into an agreement with him in the form and manner and at the place and time hereby in such case required, the Master shall for each such offence incur a penalty not exceeding fifty Rupees.

Changes in crew to be reported.

XXIX. The Master of every Foreign-going ship, of which the crew has been engaged before a Shipping Master, shall, before finally leaving India sign and send to the nearest Shipping Master a full and accurate statement, in a form sanctioned by the Governor General of India in Council, of every change which takes place in his crew before finally leaving India, and in default shall for each offence incur a penalty not exceeding fifty Rupees; and such statement shall be admissible in evidence subject to all just exceptions.

To prevent infraction of Act, Shipping Master may board vessels and muster seamen.

XXX. For the purpose of preventing any seamen from being shipped at any Port in India contrary to the provisions of this Act, the Shipping Master by himself or his Deputy may enter at any time on board any ship open which he shall have reason to believe that seamen have been shipped, and may muster and examine the several seamen employed therein; and any person who shall obstruct the said Shipping Master or Deputy in such duty shall be liable to a penalty not exceeding one hundred Rupees.

Production of agreements and certificates.

XXXI. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for Foreign-going ships (that is to say)—

1. The Master of every Foreign-going ship shall, on signing the agreement with his crew, produce to the Shipping Master before whom the same is signed the certificates of competency or service which the said Master and his Mate are hereby required to possess; and upon such production being duly made, and the agreement being duly executed as hereby required, the Shipping Master shall sign and give to the Master a certificate to that effect.

2. In the case of running agreements for Foreign-going ships, the Shipping Master shall, before the second and every subsequent voyage made after the first commencement of the agreement, sign and give to the Master, on his complying with the provisions herein contained with respect to such agreements, and producing to the Shipping Master the certificate of competency or service of any Mate then first engaged by him, a certificate to that effect.

3. The Master of every Foreign-going ship shall, before proceeding to sea, produce the certificate so to be given to him by the Shipping Master as aforesaid to the Collector of Customs, or if there be no Collector of Customs to the Officer whose duty it is to grant a port-clearance. No Officer of Customs or other Officer shall clear any such ship outwards without such production; and if any such ship attempts to go to sea without a clearance, any such Officer may detain her until such certificate as aforesaid is produced.

4. The Master of every Foreign-going ship shall, within

forty-eight hours after the ship's arrival at her final Port of destination in India, or upon the discharge of the crew, whichever first happens, deliver such agreement to a Shipping Master at the place; and such Shipping Master shall thereupon give to the Master a certificate of such delivery; and no Officer of Customs or other Officer shall clear any Foreign-going ship inwards without the production of such certificate.

And if the Master of any Foreign-going ship fails to deliver the agreement to a Shipping Master at the time and in the manner hereby directed, he shall for every default incur a penalty not exceeding fifty Rupees.

Rules as to production of agreements and certificate for Home-trade ships.

XXXII. The following rules shall be observed with respect to the production of agreements and certificates of competency or service for Home-trade ships of a burden exceeding three hundred tons, (that is to say)—

1. No such agreement shall extend beyond the next following thirtieth day of June or thirty-first day of December, or the first arrival of the ship at her final Port of destination in India after such date, or the discharge of cargo consequent upon such arrival.

2. The Master or Owner of every such ship shall within twenty-one days after the thirtieth day of June and the thirty-first day of December in every year, or if the ship is not at any Port in India within twenty-one days after either the 30th day of June or the 31st day of December in any year within forty-eight hours after her next arrival at any Port in India, transmit or deliver to some Shipping Master in India every agreement made within the six calendar months next preceding such days respectively, and shall also produce to the Shipping Master the certificates of competency or service which the said Master and his Mate are herby required to possess.

3. The Shipping Master shall thereupon give to the Master or Owner a certificate of such delivery and production; and no Officer of Customs or other Officer authorized to grant a port-clearance shall grant a clearance for any such ship without the production of such certificate; and if any such ship attempts to go to sea without such clearance, any such Officer may detain her until the said certificate is produced.

And if the agreement for any Home-trade ship is not delivered or transmitted by the Master or Owner to a Shipping Master at the time and in the manner hereby directed, such Master or Owner shall for every default incur a penalty not exceeding fifty Rupees.

Alteration to be void unless attested to have been made with the consent of all parties.

XXXIII. Every erasure, interlineation, or alteration in any such agreement with seamen as is required by this Act (except additions so made as hereinbefore directed for shipping substitutes or persons engaged subsequently to the first departure of the ship) shall be wholly inoperative, unless proved to have been made with the consent of all the persons interested in such erasure, interlineation, or alteration by the written attestation (if made in Her Majesty's Dominions) of some Shipping Master, Justice, Officer of Customs, or other public functionary, or (if made out of Her Majesty's Dominions) of a British Consular Officer, or where there is no such Officer, of two respectable British Merchants.

Copy of agreement to be made accessible to crew.

XXXIV. The Master shall, at the commencement of every voyage or engagement, cause a legible copy of the agreement, and if necessary a translation thereof in a language understood by the majority of the crew (omitting the signatures), to be placed or posted up in such part of the ship as to be accessible to the crew, and in default shall for each offence incur a penalty not exceeding fifty Rupees.

Seamen discharged before voyage to have compensation.

XXXV. Any seaman who has signed an agreement and is afterwards discharged before the commencement of the voyage or before one month's wages are earned, without fault on his part justifying such discharge and without his consent, shall be entitled to receive from the master or owner, in addition to any wages he may have earned, due compensation for the damage thereby caused to him, not exceeding one month's wages, and may, on adducing such evidence as the Court or Magistrate hearing the case deems satisfactory, of his having been so improperly discharged as aforesaid, recover such compensation as if it were wages duly earned.

Regulation of Advances.

Regulation of advances and advance-notes.

XXXVI. No advance of wages shall be made or advance-note given to any person but the seaman himself; and no advance of wages shall be made or advance-note given for any greater sum than the amount of one month's wages, nor unless the agreement contains a stipulation for the same and an accurate statement of the amount thereof; and no advance-note shall be given to any seaman who signs the agreement before a Shipping Master, unless in the presence of such Shipping Master.

Advances irregularly or improperly made not to be a discharge of wages.

XXXVII. If any advance of wages is made or any advance-note given to any seaman in any such manner as to constitute a breach of any of the above provisions, the wages of such seaman shall be recoverable by him as if no such advance had been made or advance-note given; and in the case of any advance-note so given, no person shall be sued thereon under the provisions hereinafter contained unless he was in person or by his agent a party to the irregular or improper manner of giving the same.

Allotment of Wages.

Stipulations for allotment to be inserted in the agreement.

XXXVIII. All stipulations for the allotment of any part of the wages of a seaman during his absence, which are made at the commencement of the voyage, shall be inserted in the agreement and shall state the amounts and times of the payments to be made. All allotment-notes shall be in forms sanctioned by the local Government, and shall be made for the benefit only of a relative of the seaman or some member of his family to be named in the note, and shall be payable to the Shipping Master on account of such relative of the seaman or member of his family. Such allotment shall not in any case exceed one-third of the wages of the seaman.

Allotment-notes.

Owner &c. to pay to Shipping Master the sums allotted.

XXXIX. The Owner or any Agent who has authorized the drawing of an allotment-note shall pay to the Shipping Master on demand the sums allotted by the note, when and as the same are made payable, unless the seaman is shown in manner hereinafter mentioned to have forfeited or ceased to be entitled to the wages out

of which the allotment is to be paid; and in the event of such sums not being paid to the Shipping Master on demand, the Shipping Master may sue for and recover them with costs. The seaman shall be presumed to be duly earning his wages, unlesst he contrary is shown to the satisfaction of the Court or Magistrate, either by the official statement of the change in the crew caused by his absence made and signed by the Master as by this Act is required, or by a duly certified copy of some entry in the official log-book to the effect that he has died or left the ship, or by a credible letter from the Master of the ship to the same effect, or by such other evidence, of whatever description, as the Court or Magistrate trying the case considers sufficient to show satisfactorily that the seaman has ceased to be entitled to the wages out of which the allotment is to be paid.

Suit on allotment-notes. Evidence.

XL. The Shipping Master, on receiving any such sum as aforesaid, shall pay it over to the person named in the allotment-note. All such receipts and payments shall be entered in a book, and all entries in the said book shall be authenticated by the signature of the Shipping Master or his Deputy; and the said book shall be, at all times, open to the inspection of the parties concerned.

Receipts and payments by Shipping Master on account of allotment-notes.

Discharge and Payment of Wages.

XLI. All seamen discharged from any Foreign-going ship at any Port in India in whatever part of Her Majesty's Dominions the ship is registered, shall be discharged and receive their wages in the presence of a Shipping Master duly appointed under this Act, except in cases where some competent Court otherwise directs; and any master or owner of any such ship who discharges any seaman belonging thereto, or except as aforesaid pays his wages in any other manner, shall incur a penalty not exceeding one hundred Rupees; and in the case of Home-trade ships of a burden exceeding three hundred tons, seamen may, if the owner or master so desires, be discharged and receive their wages in like manner.

Discharge from Foreign-going ships to be made before Shipping Master.

XLII. Every master shall, not less than twenty-four hours

Master to deliver account of wages.

before paying off or discharging any seaman, deliver to him, or, if he is to be discharged before a Shipping Master, to such Shipping Master, a full and true account, in a form sanctioned by the local Government, of his wages and of all deductions to be made therefrom on any account whatever, and in default shall for each offence incur a penalty not exceeding fifty Rupees; and no deduction from the wages of any seaman (except in respect of any matter happening after such delivery) shall be allowed unless it is included in the account so delivered; and the Master shall during the voyage enter the various matters in respect of which such deductions are made, with the amounts of the respective deductions as they occur, in a book to be kept for that purpose, and shall, if required, produce such book at the time of the payment of wages and also upon the hearing before any competent authority of any complaint or question relating to such payments.

On discharge, Masters to give seamen certificates of discharge, and return certificates of competency or service to mates.

XLIII. Upon the discharge of any seaman or upon payment of his wages, the Master shall sign and give him a certificate of his discharge, in a form sanctioned by the local Government, specifying the period of his service and the time and place of his discharge; and if any Master fails to sign and give to any such seaman such certificate of discharge, he shall for each such offence incur a penalty not exceeding one hundred Rupees; and the master shall also, upon the discharge of every certificated mate whose certificate of competency or service has been delivered to and retained by him, return such certificate, and shall in default incur a penalty not exceeding two hundred Rupees.

Shipping Master may decide questions which parties refer to him.

XLIV. Every Shipping Master shall hear and decide any question whatever between a master or owner and any of his crew which both parties agree in writing to submit to him; and every award so made by him shall be binding on both parties, and shall in any legal proceeding which may be taken in the matter before any Court or magistrate, be deemed to be conclusive as to the rights of the parties; and any document purporting to be such submission or award shall be *primâ facie* evidence thereof.

How award may be enforced.

An award made by a Shipping Master under this Section may be enforced by a Magistrate in the same manner as an order for the payment of wages made by such Magistrate under the provision of Section LV.

Master and others to produce ship's papers to Shipping Masters, and give evidence.

XLV. In any proceeding relating to the wages, claims, or discharge of any seaman carried on before any Shipping Master under the provisions of this Act, such Shipping Master may call upon the owner or his agent, or upon the master or any mate or other member of the crew, to produce any log-books, papers, or other documents in their respective possession or power relating to any matter in question in such proceeding, and may call before him and examine any of such persons being then at or near the place on any such matter; and every owner, agent, master, mate, or other member of the crew who, when called upon by the Shipping Master, does not produce any such paper or document as aforesaid if in his possession or power, or does not appear and give evidence, shall, unless he shows some reasonable excuse for such default, for each such offence incur a penalty not exceeding fifty Rupees.

Settlement of wages.

XLVI. The following rules shall be observed with respect to the settlement of wages, (that is to say)—

Release to be signed before and attested by the Shipping Master.

1.—Upon the completion before a Shipping Master of any discharge and settlement, the Master or Owner and each seaman shall respectively, in the presence of the Shipping Master, sign, in a form sanctioned by the local Government, a mutual release of all claims in respect of the past voyage or engagement, and the Shipping Master shall also sign and attest the release and shall retain the same.

To be a discharge.

2.—Such release so signed and attested shall operate as a mutual discharge and settlement of all demands between the parties thereto in respect of the past voyage or engagement.

And to be evidence.

3.—A copy of such release, certified under the hand of such Shipping Master to be a true copy, shall be given by him to any party thereto requiring the same, and such copy shall be receivable in evidence upon any future question touching such claims as aforesaid, and shall

have all the effect of the original of which it purports to be a copy

No other receipt to be a discharge.

4.- In cases in which discharge and settlement before a Shipping Master are hereby required, no payment, receipt, settlement, or discharge otherwise made shall operate or be admitted as evidence of the release or satisfaction of any claim.

Voucher to be given to Master and to be evidence

5.—Upon any payment being made by a Master before a Shipping Master, the Shipping Master shall, if required, sign and give to such Master a statement of the whole amount so paid, and such statement shall, as between the Master and his employer, be received as evidence that he has made the payments therein mentioned.

Legal Rights to Wages.

Right to wages and provisions when to begin.

XLVII. A seaman's right to wages and provisions shall be taken to commence either at the time at which he commences work or at the time specified in the agreement for his commencement of work or presence on board, whichever first happens.

Seamen not to give up certain rights.

XLVIII. No seaman shall by any agreement forfeit his lien upon the ship or be deprived of any remedy for the recovery of his wages to which he would otherwise have been entitled; and every stipulation in any agreement inconsistent with any provision of this Act, and every stipulation by which any seaman consents to abandon his right to wages in the case of the loss of the ship or to abandon any right which he may have or obtain in the nature of salvage, shall be wholly inoperative.

Wages not to be dependent on the earning of freight.

XLIX. No right to wages shall be dependent on the earning of freight; and every seaman and apprentice who would be entitled to demand and recover any wages if the ship in which he has served had earned freight, shall, subject to all other rules of law and conditions applicable to the case, be entitled to claim and recover the same notwithstanding that freight has not been earned; but in all cases of wreck or loss of the ship, proof that he has not exerted himself to the utmost to save the ship, cargo, and stores shall bar his claim.

L. If any seaman or apprentice to whom wages are due under

In case of death, such wages to be paid as after mentioned.

the last preceding Section dies before the same are paid, they shall be paid and applied in the manner hereinafter specified with regard to the wages of seamen who die during a voyage.

Rights to wages in case of termination of service by wreck or illness.

LI. In cases where the service of any seaman terminates before the period contemplated in the agreement by reason of the wreck or loss of the ship, and also in cases where such service terminates before such period as aforesaid by reason of his being left on shore at any place abroad under a certificate of his unfitness or inability to proceed on the voage, granted under the provisions of the Merchant Shiping Act 1854, such seaman shall be entitled to wages for the time of service prior to such termination as aforesaid, but not for any further period.

Wages not to accrue during refusal to work or imprisonment.

LII. No seaman or apprentice shall be entitled to wages for any period during which he unlawfully refuses or neglects to work when required, whether before or after the time fixed by the agreement for his beginning work; nor, unless the Court or Magistrate hearing the case otherwise directs, for any period during which he is lawfully imprisoned for any offence committed by him.

Period within which wages are to be paid.

LIII. The Master or Owner of every ship shall pay to every seaman his wages within three days after the cargo has been delivered or within five days after the seaman's discharge, whichever first happens; and the seaman shall at the time of his discharge be entitled to be paid on account a sum equal to one-fourth part of the balance due to him; and every Master or Owner who neglects or refuses to make payment in manner aforesaid without sufficient cause, shall pay to the seaman a sum not exceeding the amount of two days' pay for each of the days not exceeding ten days during which payment is delayed beyond the respective periods aforesaid; and such sum shall be recoverable as wages.

What amount in the current coin of India is recoverable by seaman under an agreement expressing his wages &c. to be payable in a Foreign coin.

LIV. When any monies are payable in India to any seaman or apprentice for wages or otherwise under any agreement wherein such monies are expressed to be payable in some denomination of coin other than the current coin of the Port or place wherein the same have become pay-

able, the seaman or apprentice shall be entitled to demand and recover, in the current coin of such Port or place, the amount due to him estimated according to the established par value of the coin wherein the same is so expressed to be payable.

Mode of Recovering Wages.

Seaman may sue summarily before any Magistrate for wages not exceeding 500 Rupees.

LV. Any seaman or apprentice or any person duly authorized on his behalf may sue, in a summary manner, before any magistrate acting in or near to the place at which the service has terminated or at which the seaman or apprentice has been discharged or at which any person upon whom the claim is made is or resides, for any amount of wages due to such seaman or apprentice not exceeding five hundred Rupees.

Order of Magistrate to be final.

Every order made by such Magistrate in the matter shall be final.

Levy of wages by distress.

LVI. When an order for the payment of wages is made by a Magistrate under the last preceding Section and the wages are not paid at the time and in the manner prescribed, the sum mentioned in the order, with such further sum as may be thereby awarded for costs, shall be levied by distress and sale of the goods and chattels of the person directed to pay the same under a warrant to be issued for that purpose by the Magistrate.

No suit for wages under 500 Rupees to be instituted in Admiralty Court &c, except in certain cases.

LVII. No suit or proceeding for the recovery of wages under the sum of five hundred Rupees shall be instituted by or on behalf of any seaman or apprentice in any Court of Admiralty or Vice-Admiralty or in any Court of Civil Judicature other than the Court of Small Causes, where such Court exists, unless the owner of the ship is adjudged bankrupt or declared insolvent, or unless the ship is under arrest or is sold by the authority of any such Court or unless the Magistrate, acting under the authority of this Act, refers the case to be adjudged by such Court.

Master to have same remedies for wages as seamen.

LVIII. Every Master of a ship shall, so far as the case permits, have the same rights, liens, and remedies for the recovery of his wages which by this Act or by any law or custom any seaman,

not being a Master, has for the recovery of his wages; and if in any proceeding in any Court of Admiralty or Vice-Admiralty touching the claim of a Master to wages, any right of set-off or counter-claim is set up, it shall be lawful for such Court to enter into and adjudicate upon all questions, and to settle all accounts then arising or out-standing and unsettled between the parties to the proceeding, and to direct payment of any balance which is found to be due.

WAGES AND EFFECTS OF DECEASED SEAMEN.

Master to take charge of effects of deceased seaman.

LIX. Whenever a seaman or apprentice, on a voyage which is to terminate at any Port in India, dies during such voyage, the Master shall take charge of all money, clothes, and effects which he leaves on board, and shall enter in the official log-book a statement of the amount of money and a description of the effect left by the deceased, and in case of a sale of such effects, the sum received for each article sold.

Effects and wages to be paid to Shipping Master with full accounts.

LX. The master shall, within forty-eight hours after his arrival at his Port of destination in India, deliver any such effects as aforesaid, and pay any money which he has taken charge of or received, and also the wages due to deceased, to the Shipping Master at such Port, and shall give to such Shipping Master an account of the effects, money, and wages so to be delivered and paid; and no deductions claimed in such account shall be allowed unless verified, if there is an official log-book, by the entry therein hereinbefore required, and also by such other vouchers (if any) as may be reasonably required by the Shipping Master to whom the account is rendered.

Penalties for not taking charge of or accounting for such monies and effects.

LXI. If the master fails to take such charge of the money or other effects of a seaman or apprentice dying during a voyage, or to make such entries in respect thereof, or to make such payment or delivery, or to give such account as hereinbefore respectively directed, he shall be accountable for the money, wages, and effects of the seaman or apprentice to the Shipping Master as aforesaid, and shall pay and deliver the same accordingly; and such Master shall in addition incur a penalty not exceeding treble the value of the money or effects, or if such value is not

ascertained, not exceeding five hundred Rupees. All money, wages, and effects of any seaman or apprentice dying during a voyage shall be recoverable in the same Courts and by the same modes of proceeding by which seamen are hereby enabled to recover wages due to them.

Wages and property of deceased seamen may be paid without probate.

LXII. When money or effects left by, or due to, any deceased seaman or apprentice, are paid or delivered to a Shipping Master, then, subject to such deductions for expenses incurred in respect of the seaman or apprentice or of his said money and effects as the Shipping Master thinks proper to allow, the Shipping Master may pay and deliver the said money and effects to any claimants who can prove themselves to the satisfaction of the said Shipping Master to be entitled thereto, and the said Shipping Master shall be thereby discharged from all further liability in respect of the money and effects so paid and delivered; or if he think fit so to do, the Shipping Master may require probate or letters of administration or a certificate under Act XX. of 1841 to be taken out, and thereupon pay and deliver the said money and effects to the legal representative of the deceased.

Disposal of wages or effects of deceased seamen not claimed within one year.

LXIII. In cases of wages or effects of deceased seamen or apprentices received by any Shipping Master to which no claim is substantiated within one year from the receipt thereof by such Shipping Master, it shall be the duty of the Shipping Master to cause such effects to be sold and to pay the proceeds of the sale and the unclaimed wages into the Public Treasury. If any subsequent claim is made to such money and is established to the satisfaction of the Shipping Master, the amount or so much as shall appear to be due to the claimant, shall be paid out of the Public Treasury. If the claim is not established to the satisfaction of the Shipping Master, the claimant may apply by petition in a summary way to the Supreme Court of Judicature of the Presidency, or in any station of the settlement of Prince of Wales' Island, Singapore, and Malacca, to the Court of Judicature there; and such Court, after taking evidence either orally or on affidavit, shall make such order on the petition as shall seem just. Provided that, after the expiration of six years from the receipt

If subsequent claim be made thereto.

Proviso.

of such wages or effects by the Shipping Master, no such claim shall be entertained without the sanction of the local Government.

PROVISIONS, HEALTH, AND ACCOMMODATION.

Survey of provisions and water on complaint made.

LXIV. Any three or more of the crew of any Ship registered at, trading with, or being at any Port or place in India, may complain to any Shipping Master or other Officer duly appointed in this behalf by the local Government that the provisions or water for the use of the crew are at any time of bad quality, unfit for use, or deficient in quantity; and such Officer may thereupon examine the said provisions or water or cause them to be examined; and if, on examination, such provisions or water are found to be of bad quality and unfit for use, or to be deficient in quantity, the person making such examination shall signify the same in writing to the master of the ship; and if such master does not thereupon provide other proper provisions or water in lieu of any so signified to be of a bad quality and unfit for use, or does not procure the requisite quantity of any so signified to be insufficient in quantity, or uses any provisions or water which have been so signified as aforesaid to be of a bad quality and unfit for use, he shall in every such case incur a penalty not exceeding two hundred Rupees; and upon every such examination as aforesaid, the Officers making or directing the same shall enter a statement of the result of the examination in the Official log, and shall send a report thereof to the Shipping Master, and such report, if produced out of the custody of such Shipping Master, shall be received in evidence in any legal proceeding.

Forfeiture for frivolous complaint.

LXV. If the Officer to whom any such complaint as last aforesaid is made, certifies in such statement as aforesaid that there was no reasonable ground for such complaint, each of the parties so complaining shall be liable to forfeit to the owner out of his wages a sum not exceeding one week's wages.

Allowance for short or bad provision.

LXVI. In the following cases (that is to say)—

1. If during a voyage the allowance of any of the provisions which any seaman has by his agreement stipulated for, is reduced

(except in accordance with any regulations for reduction by way of punishment contained in the agreement, and also except for any time during which such seaman wilfully and without sufficient cause refuses or neglects to perform his duty or is lawfully under confinement for misconduct, either on board or on shore);

2. If it is shown that any of such provisions are or have during the voyage been bad in quality and unfit for use;

The seaman shall receive by way of compensation for such reduction or bad quality, according to the time of its continuance, the following sums, to be paid to him in addition to and to be recoverable as wages, (that is to say)—

1. If his allowance is reduced by any quantity not exceeding one-third of the quantity specified in the agreement, a sum not exceeding three annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or one anna in the case of a lascar or native seaman.

2. If his allowance is reduced by more than one-third of such quantity, six annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or two annas in the case of a lascar or native seaman.

3. In respect of such bad quality as aforesaid, a sum not exceeding eight annas in the case of a European seaman or other person shipped on the same footing as a European seaman, or three annas in the case of a lascar or native seaman.

But if it is shown, to the satisfaction of the Court or Magistrate trying the case, that any provisions, the allowance of which has been reduced, could not be procured or supplied in proper quantities, and that proper and equivalent substitutes were supplied in lieu thereof, such Court or Magistrate shall take such circumstances into consideration and shall modify or refuse compensation as the justice of the case may require.

Medicines, &c. to be provided and kept on board certain ships.

LXVII. All Foreign-going ships and all Home-trade ships of a burden exceeding three hundred tons shall have always on board a sufficient supply of medicines and appliances, suitable for diseases and accidents likely to happen on sea voyages, according to such scale as shall be from time to time issued by the local Government with the approval of the Governor General of India in Council and published at Calcutta, Madras, and Bombay in the

Government Gazettes, and in the Straits Settlement in such manner as the Governor shall notify, and in default thereof, the Owner or Master of every such ship shall be liable to a penalty not exceeding two hundred Rupees. Provided, however, that this Section shall not apply to ships navigating from the United Kingdom and coming within the provisions of Section CCXXIV. of the Merchant Shipping Act 1854.

Proviso.

LXVIII. Every Master shall keep on board proper weights and measures for the purposes of determining the quantities of the several provisions and articles served out, and shall allow the same to be used at the time of serving out such provisions and articles in the presence of a witness whenever any dispute arises about such quantities, and in default shall for every offence incur a penalty not exceeding one hundred Rupees.

Masters to keep weights and measures on board.

LXIX. Whenever the Master or any seaman of any ship registered at any place in India shall receive any hurt or injury in the service of the vessel, the expense of providing the necessary surgical and medical advice and attendance with medicines, and of his subsistence, until he shall be cured or shall be brought back to the Port from which he was shipped or other Port agreed upon, shall be defrayed, with the cost of his conveyance to such Port, by the Owner of the vessel without any deduction on that account from the wages of such Master, officer, or seaman; and if paid by himself, may be recovered as part of his wages; and if paid or allowed out of any monies forming part of the Revenues of India, shall be a charge upon the ship, and may be recovered with full costs of suit by the Secretary of State in Council.

Expense of medical attendance and subsistence in case of illness how to be defrayed.

LXX. A place or places of shelter shall be provided below a well-caulked and substantial deck for the men engaged under this Act; such place or places shall be so arranged as to allow for the men the following spaces:—

Place to be appropriated.

1.—For each European seaman or apprentice or other person shipped on the same footing as a European seaman, nine superficial feet if the place be not less than six feet in height from deck to deck; or fifty-four cubic feet if the height from deck to deck be less than six feet.

To European seamen.

2.—For each lascar or native seaman or other person shipped on the same footing as a lascar, four superficial feet; and if the place allotted be under the top-gallant forecastle, such forecastle deck shall be not less than four feet six inches above the one below it.

To lascars or native seamen.

Every such place shall be kept free from stores or goods of any kind, not being the personal property of the crew in use during the voyage; and if any such place in any ship is not in the whole sufficiently large to give such space for each seaman and apprentice as hereinbefore required, or is not properly caulked and in all other respects securely and properly constructed and well ventilated, the owner shall, for every such failure to comply with the provisions of this Section, incur a penalty not exceeding two hundred Rupees; and if any such space as aforesaid is not kept free from goods and stores as aforesaid, the Master shall, for every such failure to comply with the provisions of this Section, incur a penalty not exceeding one hundred Rupees.

Place to be kept clear.

Penalty if place be not properly constructed.

Penalty for not keeping space clear.

LXXI. The Shipping Master at any Port in India, by himself or his deputy, may enter at any time on board of any ship upon which seamen have been shipped at such Port, and inspect the provisions and water provided for the use of the crew, and the medicines and appliances and the accommodation for seamen prescribed by this Act or by the Merchant Shipping Act 1854. If on inspection the provisions or water are found to be of bad quality and unfit for use or to be deficient in quantity, the Shipping Master shall proceed as provided in Section LXIV. of this Act, and the penalty prescribed in the said Section shall be incurred by any default of the Master of the ship in respect of such provisions or water.

Shipping Master &c. may enter on board any ship and inspect provisions &c.

Procedure if provisions &c. are found to be of a bad quality.

POWER OF MAKING COMPLAINTS.

LXXII. If any seaman or apprentice, whilst on board any ship, states to the master that he desires to make complaint to a Magistrate against the master or any of the crew, the said master

Seamen to be allowed to go ashore to make complaint to a Magistrate.

shall, if the ship is then at a place where there is a Magistrate, so soon as the service of the ship will permit, and if the ship is not then at such a place, so soon after her first arrival at such a place as the service of the ship will permit, allow such seaman to go ashore, or send him ashore in proper custody, so that he may be enabled to make such complaint, and shall, in default, incur a penalty not exceeding one hundred Rupees.

Protection of Seamen from Imposition.

Sale of and charge upon wages to be invalid.

LXXIII. No wages due or accruing to any seaman or apprentice shall be subject to attachment from any Court; and every payment of wages to a seaman shall be valid in law, notwithstanding any previous sale or assignment of such wages or of any incumbrance thereon; and no assignment or sale of such wages, or of salvage made prior to the accruing thereof, shall bind the party making the same; and no power of attorney or authority for the receipt of any such wages or salvage shall be irrevocable.

No debt exceeding three Rupees recoverable till end of voyage.

LXXIV. No debt exceeding in amount three Rupees incurred by any seaman after he has engaged to serve shall be recoverable until the service agreed for is concluded.

Penalty for overcharges by lodging-house-keepers

LXXV. If any person demands or receives from any seaman or apprentice payment in respect of his board or lodging in the house of such person for a longer period than such seaman or apprentice has actually resided or boarded therein, he shall incur a penalty not exceeding one hundred Rupees.

Penalty for detaining seamen's effects.

LXXVI. If any person receives or takes into his possession or under his control any monies, documents, or effects of any seaman or apprentice, and does not return the same or pay the value thereof when required by such seaman or apprentice, subject to such deduction as may be justly due to him from such seaman or apprentice in respect of board or lodging or otherwise, or absconds therewith, he shall incur a penalty not exceeding one hundred Rupees; and any Magistrate may, besides inflicting such penalty by summary order, direct the amount or value of such monies, documents, or effects, subject to such deduction as aforesaid, to be forthwith paid to such seaman or apprentice.

Persons not to go on board before the final arrival of ship without permission.

LXXVII. Every person who, not being in the service of Her Majesty and not being duly authorized by law for the purpose, goes on board any ship about to arrive at the place of her destination, before her actual arrival at the place of her discharge, without the permission of the master, shall for every such offence incur a penalty not exceeding two hundred Rupees; and the master or person in charge of such ship may take any such person so going on board as aforesaid into custody, and deliver him up forthwith to any Police Officer, to be by him taken before a Magistrate to be dealt with according to the provisions of this Act.

Penalty for solicitations by lodging-house-keepers.

LXXVIII. If, within twenty-four hours after the arrival of any ship at any Port in India, any person then being on board such ship solicits any seaman to become a lodger at the house of any person letting lodgings for hire, or takes out of such ship any effects of any seaman, except under his personal direction and with the permission of the Master, he shall for every such offence incur a penalty not exceeding fifty Rupees.

DISCIPLINE.

Penalty for misconduct endangering ship or life or limb.

LXXIX. Any Master of, or any seaman or apprentice belonging to any ship registered at, trading with, or being at any Port or place in India, who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, does any act tending to the immediate loss, destruction, or serious damage of such ship, or tending immediatley to endanger the life or limb of any person belonging to or on board of such ship, or who by wilful breach of duty, or by neglect of duty, or by reason of drunkenness, refuses or omits, to do any lawful act proper and requisite to be done by him for preserving such ship from immediate loss, destruction, or serious damage, or for preserving any person belonging to or on board of such ship from immediate danger to life or limb, shall for every such offence be liable to imprisonment, with or without hard labor, for a term not exceeding two years.

LXXX. Any Court having Admiralty jurisdiction in India

Admiralty Court in India may in certain cases remove Master and appoint a new Master.

may, upon application by the owner of any ship being within the jurisdiction of such Court, or by the part owner or consignee, or by the agent of the owner, or by any certificated Mate, or by one-third or more of the crew of such ship, and upon proof on oath to the satisfaction of such Court that the removal of the Master of such ship is necessary, remove him accordingly; and may also, with the consent of the owner or his agent, or the consignee of the ship, or if there is no owner or agent of the owner or consignee of the ship within the jurisdiction of the Court, then without such consent, appoint a new Master in his stead, and may also make such order and may require such security in respect of costs in the matter as it thinks fit.

Power to investigate cases of alleged incompetency and misconduct.

LXXXI. If the local Government, on the information of any Shipping Master or on any other ground, has reason to believe that any Master or Mate who has obtained a certificate of competency or service from such Government, is from incompetency or misconduct unfit to discharge his duties, it may direct any Board or Officer at or near to the place at which it may be convenient for the parties and witnesses to attend, to institute an investigation; and thereupon such Board or Officer shall conduct the investigation, and may summon the Master or Mate to appear, and shall give him full opportunity of making a defence either in person or otherwise, and shall, for the purpose of such investigation, have all the powers vested in Magistrates of summoning and examining witnesses, and may make such order with respect to the costs of such investigation as they may deem just, and shall on the conclusion of the investigation make a report upon the case to the local Government.

Local Government may cancel or suspend certificates in certain cases.

LXXXII. The local Government may suspend or cancel the certificate (whether of competency or service) granted under this Act to any Master or Mate in the following cases; (that is to say)—

1. If upon any investigation made in pursuance of the last preceding Section, he is reported to be incompetent, or to have been guilty of any gross act of misconduct, drunkenness, or tyranny.

2. If upon any investigation conducted under the provisions of Sections C. CI. and CII. of this Act, it is reported that the loss or abandonment of or serious damage to any ship, or loss of life, has been caused by his wrongful act or default.

3. If upon any investigation conducted under the provisions of the Merchant Shipping Act 1854, or upon any investigation made by a Naval Court constituted as is provided by the said Act or any other law for the time being in force, or upon any investigation made by any Court or tribunal authorized or hereafter to be authorized by the Legislative Authority in any British possession to make enquiry into charges of incompetency or misconduct on the part of Masters or Mates of the ships or as to ship-wreck or other casualties affecting ships, it is reported that the loss or abandonment of, or serious damage to any ship, or loss of life, has been caused by his wrongful act or default or that he has been guilty of any gross act of misconduct, drunkenness, or tyranny. Provided always that, in the case of any report by any such last mentioned Court or tribunal, the report shall have been confirmed by the Governor or person administering the Government of such possession.

4. If he is superseded by the order of any Admiralty Court or of any Naval Court constituted as is provided by the Merchant Shipping Act 1854 or any other law for the time being in force.

5. If he is shown to have been convicted of any offence.

And every Master or Mate whose certificate is cancelled or suspended shall deliver it to the Shipping Master or to such other person as the local Government shall direct, and in default shall for each offence incur a penalty not exceeding five hundred Rupees; and the local Government may at any subsequent time grant to any person whose certificate has been cancelled, a new certificate of the same or of any lower grade.

Offences of seamen and apprentices and their punishments.

LXXXIII. Whenever any seaman who has been lawfully engaged, or any apprentice to the sea-service, commits any of the following offences, he shall be liable to be punished summarily as follows: (that it is to say)—

Desertion.

1. For desertion he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor, and also to forfeit all or-

any part of the clothes and effects he leaves on board, and all or any part of the wages or emoluments which he has then earned, and also if such desertion takes place at any Port or place not in India, at the discretion of the Court, to forfeit all or any part of the wages or emoluments he may earn in any other ship in which he may be employed until his next return to any Port or Place in India, and to satisfy any excess of wages paid by the master or owner of the ship from which he deserts, to any substitute engaged in his place at a higher rate of wages than the rate stipulated to be paid to him.

Neglecting or refusing to join, or to proceed to sea absence within twenty-four hours before sailing, and absence without leave.

2. For neglecting or refusing without reasonable cause to join his ship or to proceed to sea in his ship, or for absence without leave at any time within twenty-four hours of the ship's sailing from any Port either at the commencement or during the progress of any voyage, or for absence at any time without leave and without sufficient reason from his ship or from his duty not amounting to desertion or not treated as such by the master, he shall be liable to imprisonment for any period not exceeding ten weeks, with or without hard labor, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding the amount of two days' pay, and in addition for every twenty-four hours of absence either a sum not exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

Quitting without leave before ship is secured.

3. For quitting the ship without leave after her arrival at her Port of delivery and before she is placed in security, he shall be liable to forfeit out of his wages a sum not exceeding one month's pay.

Act of disobedience.

4. For wilful disobedience to any lawful command he shall be liable to imprisonment for any period not exceeding four weeks, with or without hard labor, and also, at the discretion of the Court, to forfeit out of his wages a sum not exceeding two days' pay.

Continued disobedience.

5. For continued wilful disobedience to lawful commands, or continued wilful neglect of duty, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor, and also at the discretion of the Court, to forfeit for every twenty-four hours' continuance of such disobedience or neglect, either a sum not

exceeding six days' pay, or any expenses which have been properly incurred in hiring a substitute.

Assault on Officers.

6. For assaulting any master or mate he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Combining to disobey.

7. For combining with any other or others of the crew to disobey lawful commands, or to neglect duty or to impede the navigation of the ship or the progress of the voyage, he shall be liable to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Wilful damage and embezzlement.

8. For wilfully damaging the ship, or embezzling or wilfully damaging any of her stores or cargo, he shall be liable to forfeit out of his wages a sum equal in amount to the loss thereby sustained, and also, at the discretion of the Court, to imprisonment for any period not exceeding twelve weeks, with or without hard labor.

Act of smuggling causing loss to Owner.

9. For any act of smuggling of which he is convicted, and whereby loss or damage is occasioned to the Master or Owner, he shall be liable to pay to such Master or Owner such a sum as is sufficient to re-imburse the Master or Owner for such loss or damage; and the whole or a proportionate part of his wages may be retained in satisfaction or on account of such liability, without prejudice to any further remedy.

Entry of offences to be made in official log, and to be read over or a copy given to the offender, and his reply, if any, to be also entered.

LXXXIV. Upon the commission of any of the offences enumerated in the last preceding Section, an entry thereof shall be made in the official log book, and shall be signed by the Master and also by the Mate or one of the crew; and the offender, if still in the ship, shall before the next subsequent arrival of the ship at any Port, or if she is at the time in Port before her departure therefrom, either be furnished with a copy of such entry or have the same read over distinctly and audibly to him, and may thereupon make such reply thereto as he thinks fit; and a statement that a copy of the said entry has been so furnished, or that the same has been so read over as aforesaid, and the reply (if any) made by the offender, shall likewise be entered and signed in manner aforesaid; and in any

subsequent legal proceeding, the entries hereinbefore required shall, if practicable, be produced or proved, and in default of such production or proof, the Court hearing the case may, at its discretion, refuse to receive evidence of the offence.

Seamen whom masters of ships are compelled to convey, and persons going in ships without leave, to be subject to penalties for breach of discipline.

LXXXV. Every seafaring person whom the master of any ship is, under the authority of this Act or any law, compelled to take on board and convey, and every person who goes to sea in any ship without the consent of the master or owner or other person entitled to give such consent, shall, so long as he remains in such ship, be subject to the same laws and regulations for preserving discipline, and to the same penalties and punishments for offences constituting or tending to a breach of discipline, to which he would be subject if he were a member of the crew and had signed the agreement.

Master or owner may apprehend deserters without warrant.

LXXXVI. Whenever, either at the commencement or during the progress of any voyage, any seaman or apprentice neglects or refuses to join, or deserts from, or refuses to proceed to sea in any ship in which he is duly engaged to serve, or is found otherwise absenting himself therefrom without leave, the master or any mate, or the owner, ship's husband, or consignee, may, with or without the assistance of Police Officers, who are hereby directed to give the same if required, apprehend him without first procuring a warrant; and may thereupon in any case, and shall, in case he so requires and it is practicable, convey him before some Court capable of taking cognizance of the matter, to be dealt with according to law; and may, for the purpose of conveying him before such Court, detain him in custody for a period not exceeding twenty-four hours or such shorter time as may be necessary, or may, if he does not so require, or there is no such Court at or near the place, at once convey him on board; and if any such apprehension appears to the Court before which the case is brought, to have been made on improper or on insufficient grounds, the master, mate, owner, ship's husband, or consignee, who makes the same or causes the same to be made, shall incur a penalty not exceeding two hundred Rupees; but such penalty, if inflicted, shall be a bar to any action for false imprisonment in respect of such apprehension.

LXXXVII. Whenever any seaman or apprentice is brought before any Court on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, such Court may, if the master or the Owner or his agent so requires, instead of committing the offender to prison, cause him to be conveyed on board for the purpose of proceeding on the voyage, or deliver him to the Master or any mate of the ship, or the owner or his agent, to be by them so conveyed, and may in such case order any costs and expenses properly incurred by or on behalf of the Master or owner by reason of the offence, to be paid by the offender, and if necessary to be deducted from any wages which he has then earned, or which by virtue of his then existing engagement he may afterwards earn.

Deserters may be sent on board in lieu of being imprisoned.

LXXXVIII. If any seaman or apprentice is imprisoned on the ground of his having neglected or refused to join or to proceed to sea in any ship in which he is engaged to serve, or of having deserted or otherwise absented himself therefrom without leave, or of his having committed any other breach of discipline, and if during such imprisonment and before his engagement is at an end his services are required on board his ship, any Magistrate may, at the request of the Master or of the owner or his agent, cause such seaman or apprentice to be conveyed on board his said ship for the purpose of proceeding on the voyage, or to be delivered to the Master or any Mate of the ship or to the Owner or his agent, to be by them so conveyed, notwithstanding that the termination of the period for which he was sentenced to imprisonment has not arrived.

Seaman imprisoned for desertion or breach of discipline may be sent on board before termination of sentence.

LXXXIX. In all cases of desertion from any ship registered at a Port or place in India while such ship is at any place out of India, the Master shall produce the entry of such desertion in the official log-book to the person or persons required by the Merchant Shipping Act 1854 to endorse on the agreement a certificate of such desertion; and such person or persons shall thereupon make and certify a copy of such entry

Entries and certificates of desertion abroad to be copied, sent home, and admitted in evidence.

and also a copy of the said certificate of desertion; the master shall forthwith transmit such copies to the Shipping Master at the Port where such seaman was engaged, who shall, if required, cause the same to be produced in any legal proceeding; and such copies, if purporting to be so made and certified as aforesaid, shall in any legal proceeding relating to such desertion be received as evidence of the entries therein appearing.

Facilities for proving desertion so far as concerns forfeiture of wages.

XC. Whenever a question arises whether the wages of any seaman or apprentice are forfeited for desertion, it shall be sufficient for the party insisting on the forfeiture to show that such seaman or apprentice was duly engaged in or that he belonged to the ship from which he is alleged to have deserted, and that he quitted such ship before the completion of the voyage or engagement, or if such voyage was to terminate at any Port or place in India, and the ship has not returned, that he is absent from her, and that an entry of the desertion has been duly made in the official log-book; and thereupon the desertion shall, so far as relates to any forfeiture of wages or emoluments under the provisions hereinbefore contained, be deemed to be proved, unless the seaman or apprentice can produce a proper certificate of discharge or can otherwise show to the satisfaction of the Court that he had sufficient reasons for leaving his ship.

Costs of procuring imprisonment may, to the extent of thirty Rupees, be deducted from wages.

XCI. Whenever in any proceeding relating to seamen's wages it is shown that any seaman or apprentice has in the course of the voyage been convicted of any offence by any competent tribunal and rightfully punished therefore by imprisonment or otherwise, the Court hearing the case may direct a part of the wages due to such seaman, not exceeding thirty Rupees, to be applied in re-imbursing any costs properly incurred by the Master in procuring such conviction and punishment.

Amount of forfeiture how to be ascertained when seamen contract for the voyage.

XCII. Whenever any seaman contracts for wages by the voyage or by the run or by the share, and not by the month or other stated period of time, the amount of forfeiture to be incurred under this Act shall be taken to be an amount bearing the same proportion to the whole wages or share as the period

hereinbefore mentioned in fixing the amount of such forfeiture (as the case may be) bears to the whole time spent in the voyage; and if the whole time spent in the voyage does not exceed the period for which the pay is to be forfeited, the forfeiture shall extend to the whole wages or share.

Application of forfeitures.

XCIII. All clothes, effects, wages and emoluments which under the provisions hereinbefore contained are forfeited for desertion, shall be applied in the first instance in or towards the re-imbursement of the expenses occasioned by such desertion to the Master or owner of the ship from which the desertion has taken place, and may, if earned subsequently to the desertion, be recovered by such Master or by the owner or his agent in the same manner as the deserter might have recovered the same if they had not been forfeited; and in any legal proceeding relating to such wages, the Court may order the same to be paid accordingly; and, subject to such re-imbursement, the same shall be paid into the public Treasury and carried to the account of Government; and in all other cases of forfeiture of wages under the provisions hereinbefore contained, the forfeiture shall, in the absence of any specific directions to the contrary, be for the benefit of the Master or owner by whom the wages are payable.

Questions of forfeitures may be decided in suits for wages.

XCIV. Any question concerning the forfeiture of, or deductions from the wages of any seaman or apprentice, may be determined in any proceeding lawfully instituted with respect to such wages, notwithstanding that the offence in respect of which such question arises, though hereby made punishable by imprisonment as well as forfeiture, has not been made the subject of any criminal proceeding.

Penalty for false statement as to last ship or name.

XCV. If any seaman, on or before being engaged, wilfully and fraudulently makes a false statememt of the name of his last ship or last alleged ship, or wilfully and fraudulently makes a false statement of his own name, he shall incur a penalty not exceeding fifty Rupees, and such penalty may be deducted from any wages he may earn by virtue of such engagement as aforesaid, and shall, subject to re-imbursement of the loss and expenses (if any) occasioned by any previous desertion, be paid and applied in the same manner as other penalties payable under this Act.

Fines to be deducted from wages, and paid to Shipping Master.

XCVI. Whenever any seaman commits an act of misconduct for which his agreement imposes a fine, and which it is intended to punish by enforcing such fine, an entry thereof shall be made in the official log-book, and a copy of such entry shall be furnished or the same shall be read over to the offender, and an entry of such reading over, and of the reply (if any) made by the offender, shall be made, in the manner and subject to the conditions hereinbefore specified with respect to the offences against discipline specified in and punishable under this Act; and such fine shall be deducted and paid over as follows (that is to say) if the offender is discharged at any Port or place in India, and the offence, and such entries in respect thereof as aforesaid, are proved, in the case of Foreign-going ship to the satisfaction of the Shipping Master before whom the offender is discharged, and in the case of a Home-trade ship to the satisfaction of the Shipping Master at or nearest to the place at which the crew is discharged, the Master or Owner shall deduct such fine from the wages of the offender and pay the same over to such Shipping Master; and if before the final discharge of the crew in India, any such offender as aforesaid enters into any of Her Majesty's ships or is discharged at any place not in India, and the offence and such entries as aforesaid are proved to the satisfaction of the Officer in command of the ship into which he so enters or of the Consular Officer, Officer of Customs or other person by whose sanction he is so discharged, the fine shall thereupon be deducted as aforesaid, and an entry of such deduction shall then be made in the official log-book (if any) and signed by such Officer or other person; and on the return of the ship to India, the Master or Owner shall pay over such fine, in the case of Foreign-going ships to the Shipping Master before whom the crew is discharged, and in the case of Home-trade ships to the shipping Master at or nearest to the place at which the crew is discharged; and if any Master or Owner neglects or refuses to pay over any such fine in manner aforesaid, he shall for each such offence incur a penalty not exceeding six times the amount of the fine returned by him; provided that no act of misconduct for which any such fine as aforesaid has been inflicted and paid shall be otherwise punished under the provisions of this Act.

XCVII. Every person who by any means whatever persuades

Penalty for enticing to desert and harbouring deserters.

or attempts to persuade any seaman or apprentice to neglect or refuse to join or to proceed to sea in or to desert from his ship, or otherwise to absent himself from his duty, shall for each offence in respect of each such seaman or apprentice incur a penalty not exceeding one hundred Rupees; and every person who wilfully harbours or secretes any seaman or apprentice who has deserted from his ship or who has wilfully neglected or refused to join or has deserted from his ship, knowing or having reason to believe such seaman or apprentice to have so done, shall for every such seaman or apprentice so harboured or secreted, incur a penalty not exceeding one hundred Rupees.

Penalty for obtaining passage surreptitiously.

XCVIII. Any person who secretes himself and goes to sea in any ship without the consent of either the Owner, Consignee, or Master, or of a Mate, or of any person in charge of such ship, or of any other person entitled to give such consent, shall incur a penalty not exceeding two hundred Rupees, or be liable to imprisonment, with or without hard labor, for any period not exceeding four weeks.

On change of Masters, documents hereby required to be handed over to successor.

XCIX. If during the progress of a voyage the Master of any ship registered at any Port or place in India is superseded or for any other reason quits the ship and is succeeded in the command by some other person, he shall deliver to his successor the various documents relating to the navigation of the ship and to the crew thereof which are in his custody; and shall in default incur a penalty not exceeding one thousand Rupees; and such successor shall, immediately on assuming the command of the ship, enter in the official log a list of the documents so delivered to him.

ENQUIRIES INTO WRECKS.

Enquiry may be instituted in cases of wreck and casualty.

C. In any of the cases following, that is to say:—

Whenever any ship is lost, abandoned, or materially damaged on or near the coasts of India;

Whenever any ship causes loss or material damage to any other ship on or near such coasts;

Whenever, by reason of any casualty happening to or on board of any ship on or near such coasts, loss of life ensues;

Whenever any such loss, abandonment, damage, or casualty happens elsewhere to or on board any ship registered at any Port or place in India, under the Merchant Shipping Act 1854 or under Act X. of 1841—it shall be the duty of any European Civil Officer of Government residing at or near the place where such loss, abandonment, damage, or casualty occurred, if the same occurred in India, but if elsewhere, at or near the place where such witnesses as aforesaid arrive or are found, to give notice of the same to the local Government. It shall be lawful for the local Government, whether such notice be given or not, if a formal investigation appears to it to be requisite or expedient, to appoint two persons to make the same. The investigation shall be held at such place as the local Government shall deem best for the convenient examination of the witnesses. One of the persons to be so appointed shall be a Magistrate acting in or near the place where the investigation is held: the other may be any person conversant with maritime affairs.

Investigation.

CI. The persons appointed shall proceed to make the investigation and shall for that purpose, so far as relates to compelling the attendance of witnesses, and the regulation of the proceedings, have the same powers as if the same were a proceeding relating to an offence or cause of complaint upon which such Magistrate has power to convict summarily, or as near thereto as circumstances admit.

Report.

CII. Upon the conclusion of the case the persons appointed to investigate shall send a report to the local Government, containing a full statement of the case and of their opinion thereon, accompanied by such report of or extracts from the evidence and such observations (if any) as they may think fit.

Official Logs.

Official logs to be kept in forms sanctioned by local Government.

CIII. An official log-book of every ship registered at any Port or place in India, except Home-Trade ships of a burden not exceeding three hundred tons, shall be kept in a form sanctioned by the local Government; and such official log may, at the dis-

cretion of the Master or Owner, either be kept distinct from the ordinary ship's log or united therewith, so that in all cases all the blanks in the official log be duly filled up.

Entries to be made in due time.

CIV. Every entry in every official log shall be made as soon as possible after the occurrence to which it relates, and if not made on the same day as the occurrence to which it relates shall be made and dated so as to show the date of the occurrence, and of the entry respecting it; and in no case shall any entry therein in respect of any occurrence happening previously to the arrival of the ship at her final Port of discharge be made more than twenty-four hours after such arrival.

Entries required in official log.

CV. Every Master of a ship for which an official log-book is hereby required shall make or cause to be made therein entries of the following matters, (that is to say):—

Convictions.

1. Every legal conviction of any member of his crew and the punishment inflicted.

Offence.

2. Every offence committed by any member of his crew for which it is intended to prosecute, or to enforce a forfeiture, or to exact a fine, together with such statement concerning the reading over such entry and concerning the reply (if any) made to the charge, as hereinbefore required.

Punishments.

3. Every offence for which punishment is inflicted on board, and the punishment inflicted.

Conduct &c. of crew.

4. A statement of the conduct, character, and qualifications of each of his crew, or a statement that he declines to give an opinion on such particulars.

Illness and injuries.

5. Every case of illness or injury happening to any member of the crew, with the nature thereof, and the medical treatment adopted (if any).

Deaths.

6. Every case of death happening on board, and of the cause thereof.

Births.

7. Every birth happening on board with the sex of the infant and the names of the parents.

Marriage.

8. Every marriage taking place on board with the names and ages of the parties.

9. The name of every seaman or apprentice who ceases to be a member of the crew otherwise than by death, with the place, time, manner, and cause thereof.

Quitting ship.

10. The amount of wages due to any seaman who enters Her Majesty's Service during the voyage.

Wages of men entering Navy.

11. The wages due to any seaman or apprentice who dies during the voyage, and the gross amount of all deductions to be made therefrom.

Wages of deceased seaman.

12. The sale of the effects of any seaman or apprentice who dies during the voyage, including a statement of each article sold and of the sum received for it.

Sales of deceased men's effects.

13. Every collision with any other ship and the circumstances under which the same occurred.

Collisions.

CVI. The entries hereby required to be made in official log-books shall be signed as follows, (that is to say), every such entry shall be signed by the Master and by the Mate or some other of the crew, and every entry of illness, injury, death, or birth shall be also signed by the surgeon or medical practitioner on board (if any); and every entry of wages due to, or of the sale of the effects of, any seaman or apprentice who dies shall be signed by the Master and by the Mate and some other member of the crew, and every entry of wages due to any seaman who enters Her Majesty's service, shall be signed by the Master and by the seaman or by the Officer authorized to receive the seaman into such service.

Entries how to be signed.

CVII. The following offences in respect of official log-books shall be punishable as hereinafter mentioned, (that is to say):—

Penalties, in respect of Official Logs.

1. If in any case an official log-book is not kept in the manner hereby required, or if any entry hereby directed to be made in any such log-book is not made at the time and in the manner hereby directed, the Master shall for each such offence incur the specific penalty herein mentioned in respect thereof, or where there is no such specific penalty, a penalty not exceeding fifty Rupees.

2. Every person who makes or procures to be made or assists in making any entry in an official log-book, in respect of any occurrence happening previously to the arrival of the ship at her

final Port of discharge in India, more than twenty-four hours after such arrival, shall for each such offence incur a penalty not exceeding three hundred Rupees.

3. Every person who wilfully destroys or mutilates or renders illegible any entry in any official log-book, or who wilfully makes or procures to be made or assists in making any false or fraudulent entry or omission in any such log-book, shall for each such offence be liable to imprisonment, with or without hard labor, for a term not exceeding one year.

Entries in official logs to be received in evidence.

CVIII. All entries made in any official log-book as hereinbefore directed shall be received in evidence in any proceeding in any Court of Justice, subject to all just exceptions.

Official logs to be delivered to Shipping Master.

CIX. The Master of every Foreign-going ship shall, within forty-eight hours after the ship's arrival at her final Port of destination in India, or upon the discharge of the crew, whichever first happens, deliver to the Shipping Master before whom the crew is discharged the official log-book of the voyage; and the Master or Owner of every Home-trade ship of a burden exceeding three hundred tons shall within twenty-one days after, the 30th day of June and the 31st day of December in every year, transmit or deliver to some Shipping Master in India the Official log-book for the preceding half year; and every Master or Owner who refuses or neglects to deliver his official log-book as hereby required, shall be subject to a penalty not exceeding two hundred Rupees.

Official logs to be sent Home in case of transfer of ship and in case of loss.

CX. If any ship ceases, by reason of transfer of ownership or change of employment, to fall within the operation of Section CIII. of this Act, the Master or Owner thereof shall, if such ship is then in any Port in India, within one month, and if she is elsewhere, within six months, deliver or transmit to the Shipping Master at the Port to which the ship belonged, the official log-book duly made out to the time at which she ceased to be within such operation, and in default shall for each offence incur a penalty not exceeding one hundred Rupees; and if any ship is lost or abandoned, the Master or Owner thereof, shall, if practicable, and as soon as possible, deliver or transmit to the Ship-

ping Master at the Port to which the ship belonged, the official log-book (if any) duly made out to the time of such loss or abandonment, and in default shall for each offence incur a penalty not exceeding one hundred Rupees.

Depositions to be received in evidence when witnesses cannot be produced.

CXI. Whenever, in the course of any legal proceeding instituted at any Port or place in India before any Judge or Magistrate or before any person authorized by law or by consent of parties to receive evidence, the testimony of any witness is required in relation to the subject matter of such proceeding, any deposition that such witness may have previously made in relation to the same subject matter before any Justice or Magistrate in Her Majesty's Dominions (including all parts of India other than those subject to the same local Government as the Port or place where such proceedings are instituted,) or any British Consular Officer elsewhere, shall, if authenticated by the signature of the Justice, Magistrate, or Consular Officer, be admissible in evidence on due proof that such witness cannot be found within the jurisdiction of the Court in which such proceedings are instituted. Provided that, if the proceeding is criminal, such deposition shall be admissible unless it was made in the presence of the person accused and the fact that it was so made is certified by the Justice, Magistrate, or Consular Officer. It shall not be necessary in any case to prove the signature or official character of the person appearing to have signed any such deposition; and in any criminal proceeding, such certificate as aforesaid shall, unless the contrary is proved, be sufficient evidence of the accused having been present in manner thereby certified.

Adjudication of offences on recovery of penalties.

CXII. All offences under this Act, made punishable by any penalty, may be prosecuted summarily before a Magistrate or any person exercising the powers of a Magistrate. The provisions of Act XIII. of 1856, relating to the adjudication of fines and penalties and the enforcing payment thereof, shall apply to penalties imposed under this Act in the Towns of Calcutta, Madras, and Bombay, and the Settlement of Prince of Wales' Isand, Singapore, and Malacca.

CXIII. In all cases where any Court or Magistrate has power

Wages, penalties, &c. payable by Master or Owner may be levied by distress of ship.

to make an order directing payment to be made of any seaman's wages, penalties, or other sums of money, then, if the party so directed to pay the same is the master or owner of a ship and the same is not paid at the time and in manner prescribed in the order, the Court or Magistrate who made the order may, in addition to any other powers which such Court or Magistrate may have for the purpose of compelling payment, direct the amount remaining unpaid to be levied by distress and sale of the said ship, her tackle, furniture, and apparel.

Act not to extend to ships belonging to Her Majesty or to any Foreign Prince or State.

Or (except certain Sections) to ships belonging to the subjects of any Foreign Prince or State.

CXIV. Nothing in this Act shall extend to any ship belonging to or in the service of Her Majesty or to any ship belonging to any Foreign Prince or State; and nothing in this Act except as otherwise hereinafter provided, shall extend to any ship belonging to the subjects of any Foreign Prince or State.

Engagements between Masters of Foreign ships and lascars or native seamen.

CXV. When the Master of a Foreign ship being at any Port in India engages any lascar or other native seaman to proceed to any Port out of India, he shall enter into an agreement with such seaman, and the agreement shall be made before a Shipping Master in the manner hereinbefore provided for the making of agreements in the case of Foreign-going ships, and all the provisions of Sections XXI. and XXII. of this Act respecting the form of such agreements and the stipulations to be contained in them and the making and signing of the same, shall be applicable to the engagement of such seaman; and the Master of such Foreign ship shall give to the Shipping Master a bond with the security of some approved person resident in India for an amount calculated at the rate of one hundred Rupees for every such seaman and conditioned for the due performance of the said agreement and stipulations.

Fees payable in respect of such engagements.

CXVI. The fees prescribed in Section VI. of this Act shall be payable in respect of every such engagement, and deductions from the wages of seamen so engaged may be made to the extent and in the manner allowed by the said Section.

Penalty for Master of

CXVII. If any lascar or other native seaman is engaged by the Master of any Foreign ship otherwise

Foreign ship engaging native seamen otherwise than is allowed by two last preceding Sections.

than is allowed in the two last preceding Sections, such Master shall be liable to a penalty of one hundred Rupees for every such seaman as engaged.

Shipping Master may board Foreign ships suspected of unlawfully shipping native seamen.

It shall be lawful for the Shipping Master, by himself or his deputy, to enter on board any Foreign ship upon which he shall have reason to believe that any such seaman has been shipped, and the provisions of Section XXX. of this Act shall be applicable in respect of every such ship.

Interpretation.

CXVIII. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, (that is to say);

"India."

The word "India" shall mean the Territories which are or may become vested in Her Majesty by the Statute 21 and by 22 Vic. c. 106, entituled "An Act for the better Government of India;"

"Local Government."

the expression "local Government" shall mean the person or persons for the time being immediately administering the Executive Government of any portion of the said territories.

"Home-trade ship."

The expression "Home-trade ship," shall include every ship employed in trading between any Ports of the said territories; or between any Port of the said territories and any Port or place on the Continent of India or in the Island of Ceylon.

"Foreign-going ship."

The expression "Foreign-going ship" shall include every ship employed in trading between any Port of the said territories and any Port or place not in the said territories nor on the Continent of India nor in the Island of Ceylon.

"Master."

The word "Master" shall include every person (except a Pilot) having command or charge of any ship.

"Seaman."

The word "seaman" shall include every person (except Masters, pilots, and apprentices) employed or engaged in any capacity on board any ship.

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender

Words importing the masculine gender shall include females.

"Person."

The word "person" shall include a corporation.

TABLE A.

Fees to be charged for matters transacted at Shipping Offices.

1. Engagement or discharge of crews.

	Rs.	As.	P.
In Ships under 100 Tons	3	0	0
From 100 to 200 „	7	0	0
200 to 300 „	10	0	0
300 to 400 „	12	8	0
400 to 500 „	15	0	0
500 to 600 „	17	8	0
600 to 700 „	20	0	0
700 to 800 „	22	8	0
800 to 900 „	25	0	0
900 to 1000 „	27	8	0
above 1000 „	30	0	0

and so on for ships of larger tonnage, adding for every one hundred tons above one thousand, two Rupees and eight annas.

2. Engagement or discharge of seaman separately, one Rupee for each seaman.

TABLE B.

Sums to be deducted from wages by way of partial repayment of fees in Table A.

1. In respect of engagements and discharges of crews, upon each engagement and each discharge.

	Rs.	As.	P.
From wages of any Mate, Purser, Engineer, Surgeon, Carpenter, or Steward	0	12	0
From wages of all others except apprentices ..	0	8	0
2. In respect of engagements and discharges of seamen separately, upon each engagement and each discharge	0	8	0

NABOB OF THE CARNATIC.

ACT No. II. OF 1859.

[*Passed on the 5th February*, 1859.

Recites proceedings had under Act XXX. 1858 s. 14, and neglect of further proceedings.

1, 2, 3. Limit period for continuing such proceedings.

4, 5. Limits time for filing documents in support: (5) date of filing to be endorsed; and (7) no document to be received after time.
6. Solicitor to Government entitled to examine and take copies.
7. Ante.
8. Particulars under this Act, in place of under Act XXX. 1838.
9. Supreme Court to appoint day for hearing.
10. Proceedings to be as effectual as if under former Act.
11. How claimant may be barred if not appearing.

An Act to amend Act XXX. of 1858 (to provide for the administration of the Estate, and for the payment of the debts of the late Nabob of the Carnatic).

Preamble.

Whereas, in pursuance of the provisions of Section XIV. of Act XXX. of 1858, numerous declarations were filed in the Office of the Registrar of the Supreme Court of Judicature at Madras, within three months from the passing of the Act, by persons claiming to be creditors of the late Nabob of the Carnatic, but as yet, with very few exceptions, such persons have not made any application to the Court under the provisions of Section XIX. of the said Act, to appoint a day for ascertaining the amount of their debts, or furnished any particulars of their claims; and whereas, since the passing of the said Act, two of the seals formerly belonging to the said Nabob have been unlawfully taken away by some person or persons unknown and there is reason to believe that they have been feloniously stolen, and it is necessary, in order to guard against fraud, to limit the time within which particulars of the said claims shall be furnished, and to require all documents intended to be used in support thereof to be filed, and also to enable the Court upon the application of the Government of Madras to fix a day for the investigation of any of the said claims: It is enacted as follows:—

Time limited for filing particulars of claim, when declaration has been filed.

I. Every person who has filed a declaration under the provisions of Section XIV. of the said Act, shall file in the Office of the Registrar of the Supreme Court at Madras, full particulars of his claim with dates and items, within one week after the publication of this Act in the Fort St. George Gazette, or within such time, not exceeding one month after such publication, as may be allowed by the said Court or a Judge thereof, for any special reason which may appear to the said Court or Judge to be sufficient.

II. If the particulars filed as above provided be insufficient, the said Court or a Judge thereof may, upon an application on the part of Government, make an order for the filing, within a time to be specified in such order, of such further particulars as the said Court or Judge may consider necessary.

If particulars be insufficient, Court on application may order further particulars to be filed within a specified time.

III. If the particulars be not filed within the time limited by Section I. of this Act—or in the case of an order for further particulars under Section II. of this Act, if such further particulars be not filed within the time limited by the order—the said Court or a Judge thereof, upon an application on behalf of Government, shall make an order barring the claimant from proceeding under Section XIV. or any subsequent Section of Act XXX. of 1858, and from the benefits of the provisions of Section XXV. of the said Act; and in such case the claimant shall not be entitled to proceed under Section XIV. or any subsequent Section of the said Act, or to be paid under the provisions of Section XXV. of the said Act.

If particulars be not filed within the time limited, claimant to be barred from proceeding.

IV. Every person who has filed a declaration under the provisions of Section XIV. of the said Act, shall file in the Office of the Registrar of the said Court, all documents intended to be used on the investigation in support of his claim (whether the same are intended to be used as independent or corroborative evidence or otherwise), within one week after the publication of this Act in the Fort St. George Gazette, or within such time not exceeding one month from the time of such publication, as may be allowed by the said Court or a Judge thereof for any special reason which may appear to the said Court or Judge to be sufficient.

Time limited for filing documents to be used in support of claim.

V. Whenever the particulars of a claim or any document is filed under the provisions of this Act, a memorandum shall be made thereon of the date on which the same is filed.

Memorandum to be made on particulars of claim or documents of the date when they are filed.

VI. The Solicitor to Government, and such other persons as may be authorized by him, may examine and take copies of the particulars of any claim or of any document filed under the provisions of this Act.

Solicitor to Government may examine and take copies of particulars, &c.

VII. No document shall be admitted in evidence in support of any claim, or used by the claimant upon the investitgaion thereof under Section XXII. of the said Act, unless the same shall have been filed in the manner and within the time required by this Act; and upon every investigation under Sectoin XXII. of the said Act, the claimant shall be bound by the particulars of his claim, in the same manner and to the same extent as a plaintiff is bound by the particulars of his demand in an action brought in the said Court.

No document to be received in evidence in support of claim, unless filed as required by this Act.

Claimants to be bound by particulars filed.

VIII. Whenever particulars of a claim shall have been filed under the provisions of this Act, it shall not be necessary for the claimant to furnish particulars under Section XX. of the said Act.

If particulars of claim are filed under this Act, particulars under Act XXX. of 1858 not necessary.

IX. The Supreme Court of Judicature at Madras or a Judge thereof may, upon application on behalf of the Government of Madras, appoint a day for ascertaining the amount due to any of the persons who have filed a declaration under Section XIV. of the said Act, and in such case notice of the day so appointed shall be given to the claimant. The day so appointed shall not be less than twenty-one days from the time when the said application shall be made.

Supreme Court to appoint a day for ascertaining the amount due to any person who has filed a declaration under Act XXX. of 1858.

X. If the claimant shall appear on the day so fixed, or on any other day to which the Court may think fit to postpone the investigation, all such proceedings shall be had for ascertaining and determining the amount due to the claimant, and for payment of the amount so ascertained, as if the day for ascertaining the amount of the debt had been appointed upon the application of the claimant under Section XIX. of the said Act, except that it shall not be necessary for the claimant to furnish particulars under Section XX. of the said Act.

Proceedings if claimant appear on day fixed.

XI. If the claimant do not appear on the day fixed as provided by Section IX. of this Act, or upon the day to which the Court may postpone the investigation, the Court upon proof of service of the notice required by Section IX. of this Act, shall make an order barring the claimant from proceeding under Section XIV. or any subsequent Section of Act XXX. of 1858 and from the benefits

Proceedings if claimant do not appear on day fixed.

of the provisions of Section XXV. of the said Act; and in such case the claimant shall not be entitled to proceed under Section XIV. or any subsequent Section of the said Act, or to be paid under the provisions of Section XXV. of the said Act, unless within one week from such day, or within such time as the said Court or a Judge thereof shall appoint for investigating the excuse for not appearing, the Court shall be satisfied that he had a reasonable excuse for not appearing and shall fix another day for the hearing of his claim.

CANTONMENT JOINT MAGISTRATES. REGISTRARS.

ACT No. III. OF 1859.

[*Passed on the 7th February*, 1859.

Recites expediency of giving Cantonment Joint Magistrates Civil Jurisdiction and appointing them Registrars

1. Empowers the Governments to confer Civil Jurisdiction on Joint Magistrate of Cantonment Bazar. Jurisdiction to be in debt for 200 Rs. over persons subject to Articles of War for Native Army.

2, 3 Jurisdiction under this Act to supersede Courts of Requests, &c. and (3) in Madras and Bombay to supersede existing rules of trial.

4. Jurisdiction under this Act to exclude all other Jurisdiction.

5. Proceedings of Madras Punchayets not to be affected by this Act.

6. Traders not registered as Military Bazar men not entitled to sue.

7. Prescribes procedure.

8. Plaintiffs bringing false claims may be fined, &c.

9, 10, 11. Executive Governments may appoint Cantonment Joint Magitrates Registrar of Deeds (10) under existing rules (11) to be sworn into Office, &c.

An Act for conferring Civil jurisdiction in certain cases upon Cantonment Joint Magistrates, and for constituting those Officers Registers of Deeds.

Preamble.

Whereas it is expedient that Cantonment Joint Magistrates should be invested with Civil jurisdiction in certain cases within the local limits of their Criminal jurisdiction, and that they should also be appointed Registers of Deeds within the same limits; It is enacted as follows :—

I. It shall be competent to the Governor General in Council

Executive Government may invest Cantonment Joint Magistrates with Civil Jurisdiction in certain cases.

and to the Executive Government of any Presidency or place to invest the Joint Magistrate of any Military Cantonment Bazar or Station, within the limits of their respective Governments, with Civil Jurisdiction. Every Joint Magistrate so invested shall have power to hear and determine actions of debt and other personal actions in which the value in question shall not exceed the sum of two hundred Rupees and which shall not involve any dispute of caste or any right of real property, against any person who at the time when the cause of action arose and at the time of the institution of the suit shall have been or shall be subject to the Articles of War for the Native Army or residing or carrying on trade or business within the limits of such Military Cantonment Bazar or Station, and not subject to any Articles of War made by Her Majesty.

Part of Act XI of 1841 suspended in Cantonments where Joint Magistrates are so invested with Civil jurisdiction.

II. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be invested with Civil Jurisdiction under the provisions of the preceding Section, and so long as he shall remain so invested, so much of Act XI. of 1841 as authorizes the Commanding Officers of Stations or Cantonments to convene Military Courts of Requests for the trial of actions of debt and other personal actions as aforesaid, shall be suspended within the limits of such Cantonment Bazar or Station.

Also the Rules in force in the Madras and Bombay Presidencies for the trial of small suits in Military Bazars.

III. Whenever in either of the Presidencies of Madras or Bombay an Officer shall be invested with Civil jurisdiction as aforesaid, and so long as he shall remain so invested, the Rules for the trial of small suits in Military Bazars at Cantonments and Stations occupied by the Troops of those Presidencies respectively, shall cease to have effect within the jurisdiction of such Officer.

Persons amenable to the Articles of War for the Native Army, to be sued before Cantonment Joint Magistrates invested with Civil jurisdiction, and not elsewhere.

IV. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be invested with Civil jurisdiction under the provisions of this Act, no person amenable to the Articles of War for the Native Army who may be liable to be sued before such Joint Magistrate for any cause of action cognizable by him, shall be sued elsewhere.

V. Provided that nothing in the preceding Sections shall be held to alter or affect the Rules in force in the Madras Presidency for the trial by Punchayet of suits against Military persons belonging to that Presidency.

Saving of Rules in force in the Madras Presidency for the trial by Punchayet of suits against Military Persons.

VI. No person carrying on trade or business within the limits of any Military Cantonment, or who shall have carried on trade or business within any such limits, shall be allowed to recover in any Court held under this Act any debt contracted in the way of such trade or business or the loan of money within any such Cantonment, by any person subject to the jurisdiction of such Court, unless the person seeking to recover the debt shall, at the time of contracting the same, have been registered as a Military Bazar-man within such Cantonment.

Trader not to recover any debt unless Registered as a Military Bazar-Man.

VII. In cases instituted under the provisions of this Act, the plaintiff shall prefer his claim in writing to the Court of the Joint Magistrate having Jurisdiction over the same, and if the defendant be a Native Officer or Soldier or a Mustered Camp Follower, the summons to appear and answer to the claim shall be transmitted, for the purpose of being served on the defendant, to the Commanding Officer of the Corps or Detachment to which such defendant may belong; and the Commanding Officer shall return the summons to the Joint Magistrate, with the acknowledgment of the defendant endorsed thereon; or if the summons cannot be served, the reason of the non-service shall be stated. In other respects the rules of procedure and all other rules contained in Act XI. of 1841 *(for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons)* shall be applicable to such cases, and to the execution of the decrees passed therein, so far as the same are applicable: provided that the decisions of the Joint Magistrate in cases cognizable by him under this Act, shall not be open to revision or appeal: and provided further that it shall not be necessary to publish in Station Orders the decrees passed in such cases before they are carried into execution, and the Joint Magistrate passing the decree shall deter-

Procedure in cases tried under this Act.

No revision or appeal.

Execution of decrees.

mine whether the execution shall be general or special and shall proceed of his own authority with the execution.

Compensation may be awarded to a defendant if suit be groundless and instituted without probable cause.

VIII. If the claim of the plaintiff be dismissed, and it shall appear to the Joint Magistrate that the suit was groundless, and that there was no probable cause for instituting the same, it shall be competent to such Joint Magistrate to award against the Plaintiff in favor of the defendant, such sum as he may consider a reasonable compensation to the defendant for the loss of time and expense to which he may have been subjected by the institution of the suit against him and to proceed to recover the amount so awarded under the rules applicable to execution of decrees passed under this Act.

Cantonment Joint Magistrates may be appointed Registers of Deeds within the limits of their jurisdiction.

IX. It shall further be lawful for the Governor General in Council or for the Executive Government of any Presidency or place, to appoint the Joint Magistrate of any Military Cantonment Bazar or Station, subject to their respective Governments, Register of Deeds within the limits of such Cantonment Bazar or Station; and when such appointment is made, and so long as it shall continue in force, the powers of the Register of Deeds of the Zillah or District in which such Cantonment Bazar or Station is situate, shall be suspended within the limits thereof.

Rules applicable to Registers of Deeds to be applicable to Cantonment Joint Magistrates appointed Registers.

X. Whenever the Joint Magistrate of any Military Cantonment Bazar or Station shall be appointed Register of Deeds under this Act, all Rules for the time being in force applicable to Registers of Deeds, shall be applicable to such Joint Magistrate and to the Deeds registered by him, or brought to him for registry.

Oaths of office.

XI. Every Joint Magistrate who shall be invested with Civil jurisdiction or who shall be appointed Register of Deeds under the provisions of this Act, shall, previously to entering upon the performance of his duties, make and subscribe before the Chief Civil Officer, or, where there may be no Civil Officer, before the Chief Military Officer of the District or Zillah in which such Cantonment Bazar or Station is situate, the oaths required by law to be made and subscribed by Civil Judges and Registers of Deeds respectively, or the declarations substituted for such oaths.

REMOVAL OF CONVICTS.

ACT No. IV. OF 1859.

[*Passed on the* 10*th February*, 1859.

1, 3. Authorizes G. G. in C. or local Government with consent of G. G. in C. to remove convicts under sentence to more than three years' imprisonment &c. (3) Legalizes past removals

2. Limits Act to one year.

A Bill to make further provision for the removal of Prisoners.

Preamble.

Whereas, by the laws in force, the Executive Government of any Presidency or place is authorised to order the removal of any person under sentence of imprisonment, from the prison or place in which he is confined, to any other public prison or place of confinement within the same Presidency or Government; and whereas it is expedient to make temporary provision for the removal of prisoners in certain cases beyond the limits of the Presidency or Government in which the place where such prisoners are confined is situate: It is enacted as follows:—

Executive Government empowered to remove certain Prisoners beyond the limits of the Presidency or Government within which they are confined.

I. Whenever it shall be judged necessary or expedient that any person, who has been convicted of any offence and sentenced to imprisonment for life or for any term exceeding three years, should be removed to some place of confinement beyond the limits of the Presidency or Government within which he is confined, it shall be lawful for the Governor General in Council, or for the Executive Government of the Presidency or place with the sanction of the Governor General in Council, to order the removal of such person from the prison or place in which he is confined to any other prison or place of confinement within any part of the territories which are or may become vested in Her Majesty by the Statute 22 and 23 Vic. c. 106, entitled "An Act for the Government of India."

Duration of Act.

II. This Act shall continue in force for one year.

Past removals so made, legalized.

III. Any prisoner who, previously to the passing of this Act, shall have been removed in manner aforesaid from any prison or place of confinement to any

other prison or place of confinement in the said territories, shall be held to have been lawfully removed.

BEERBHOOM GHATWALEE TENURE.

ACT No. V. OF 1859.

[*Passed on the 4th March,* 1859.

Recites the nature of Ghatwalee tenure.

1. Entitles Ghatwals of Beerbhoom to lease Lands for mines and other specified purposes for longer times than their own lives with consent of Commissioner.

2. Same power given to Court of Wards and Commissioner as to Ghatwalee Lands in charge of Court of Wards.

An Act to empower the holders of Ghatwalee lands in the District of Beerbhoom to grant leases extending beyond the period of their own possession.

Preamble.

Whereas it has been held that the Ghatwals of the District of Beerbhoom who pay the revenue of their lands directly to Government under the provisions of Regulation XXIX. 1814 of the Bengal Code have not the power of alienating their lands; and whereas, for the development of the mineral resources of the country in which the said Ghatwalee lands are situate, and for the improvement of the said lands, it is expedient that the power of granting leases for periods not limited by the term of their own possession, should in certain cases be extended to the possessors of such lands; it is enacted as follows:—

Ghatwals of Beerbhoom to have the same right of granting leases as is allowed to other proprietors of lands.

I. Ghatwals holding lands in the District of Beerbhoom under provisions of the aforesaid Regulation, shall have the same power of granting leases for any period which they may deem most conducive to the improvement of their tenures, as is allowed by law to the proprietors of other lands. Provided that on lease of Ghatwalee lands for any period extending beyond the life-time or incumbency of the grantor of the lease shall be valid and binding on the successors of the grantor, unless the same shall be granted for the working of mines or for the clearing of Jungle, or for the erection of dwelling houses or manufactories, or for tanks, canals,

Proviso.

and similar works; and shall be approved by the Commissioner of the Division, such approval being certified by an endorsement on the lease under the signature of the Commissioner.

Court of Wards and Revenue authorities to have the like power in certain cases.

II. If any of the said Ghatwalee lands be at any time under the superintendence of the Court of Wards, or otherwise subject to the direct control of the Officers of Government, it shall be lawful for the Court of Wards or the Commissioner to grant leases for any such purpose as aforesaid; and every lease so granted shall be valid and binding on all future possessors of the said lands, anything in the existing law to the contrary notwithstanding.

BOMBAY.--AHMEDABAD MAGISTRACY.

ACT NO. VI. OF 1859.

[*Passed on the 4th March,* 1859.

1. 2. Empowers G. of Bombay to appoint Magistrates and Assistant Magistrates for specified districts; but (2) reserving jurisdiction of Sessions Judge and Sudder F. A.

An Act to empower the Governor of Bombay in Council to appoint a Magistrate for certain Districts within the Zillah Ahamedabad.

Preamble.

Whereas it is expedient to provide specially for the Criminal and Police Administration of such portions of the Zillah Ahmedabad as are mentioned in the Schedule to this Act; It is enacted as follows:—

Governor in Council empowered to appoint a Magistrate for the Districts mentioned in Schedule.

I. It shall be lawful for the Governor of Bombay in Council to appoint a Magistrate for the Districts mentioned in the Schedule to this Act; and such Magistrate, when so appointed, shall exercise within the said Districts all the powers of a Magistrate as defined in the general Regulations of the Bombay Code and the Acts of the Legislative Council.

Powers of Magistrate.

Examination of Districts from Jurisdiction of the Magistrate of Ahmedabad.

Upon the appointment of a Magistrate under this Act, the said Districts shall be exempt from the Jurisdiction of the Magistrate of Ahmedabad.

Assistants to the Magistrate.

It shall also be lawful for the said Governor in Council to appoint so many Assistants to the said Magistrate as may be required.

II. Nothing contained in the preceding Section shall be held to remove the said Districts from the Jurisdiction of the Sessions Judge of Ahmedabad or of the Sudder Fouzdaree Adawlut.

Jurisdiction of the Session Judge of Ahmedabad and the Sudder Court.

SCHEDULE OF DISTRICTS.

[*See Section I.*]

Names of Villages under the Gogo Pergunnah.

1	Bhownuggur itself.	39	Sheehore.
2	Joona Wudwa.	40	Oosurud.
3	Rooha.	41	Soorka-Mota.
4	Ukwarra.	42	Agialee.
5	Udhewarra.	43	Tanah.
6	Tursumiya.	44	Khantree.
7	Malunka.	45	Turuckpalree.
8	Bhooteshur.	46	Dewgama.
9	Bhoobhulee.	47	Ruttunpoor, near Tanah.
10	Ruttunpoor-Joona.	48	Wudia.
11	Ruttunpoor-Nooa.	49	Wullawur.
12	Goondhee.	50	Megwuddur.
13	Koliak.	51	Ghangulee.
14	Hathub.	52	Nessura.
15	Khudsulioo.	53	Rajpoora, 2nd.
16	Bhudbhudioo.	54	Khakuria.
17	Alapoor.	55	Kurdej.
18	Thulsur.	56	Naree.
19	Iokunka.	57	Boodhel.
20	Khudurpoor and Meeteeveerdee.	58	Kobree.
		59	Bhuree.
21	Inspoora.	60	Bhundaria.
22	Mandwa.	61	Choodee.
23	Sonshiya.	62	Sankudasur.
24	Panialee.	63	Bharolee.
25	Trapuj.	64	Nagdhuneeba.
26	Buparra.	65	Surtanpoor.
27	Panchpeepla.	66	Wowree.
28	Rajpoora.	67	Thordee.
29	Bordee.	68	Rampoor.
30	Rajawuddur.	69	Soorka.
31	Wartej.	70	Sheddawuddur.
32	Phoolsur.	71	Jamballa.
33	Sondwudra.	72	Bhensowree, } Waste.
34	Phuriadka.	73	Kuchotia, } Waste.
35	Seedsur.	74	Cheerora, } Waste.
36	Kurmudia.	75	Janjra, } Waste.
37	Peethulpoor.	76	Kalvee, } Waste.
38	Shampoora.		

Names of Villages under the Dhumdooka Pergunnah.

1	Patna.	17	Kanootulow.
2	Bhurbheer.	18	Woojulwow.
3	Chukumpoor.	19	Sandeda.
4	Ruttunwow.	20	Oturia.
5	Keria.	21	Jotingra.
6	Jumrala.	22	Nagulpoor.
7	Sumundeala, 1st.	23	Sherthulee.
8	Karianee.	24	Dheckwallee.
9	Latheedhur.	25	Wajelee.
10	Surwuee.	26	Loundhurra.
11	Jhinjawuddur.	27	Malpura.
12	Pattee.	28	Dahturelia.
13	Keria near Pattee.	29	Welawuddur.
14	Bhanbhun.	30	Veerdee or Rajghur.
15	Sumundeala, 2nd.	31	Sujelee.
16	Tajpoor.		

Names of Villages under the Rampoor Pergunnah.

1	Botad.	6	Toorkha.
2	Hurdur.	7	Kamar.
3	Seerwania.	8	Rajpoora.
4	Dankunia.	9	Juria.
5	Khakhoee.		

CUSTOMS DUTIES.

ACT No. VII. OF 1859.

Passed on the 14th March, 1859.

1. Repeals, except as to Salt and Opium, Schedules A. and B. of Acts XIV. 1836; VI. 1844; IX. 1845 and I. 1852 and so much of s 2, 3, and 4, of Act XXX. 1854, as relates to export and import duties.

2, 3. Extend all existing Customs regulations to new duties, and except free ports, and (3) exports of timber from Arracan, &c.

4. Entitles importers to charge the new duties to purchasers of goods not yet arrived or cleared.

5. Act to take effect from the 12th March.

Schedules A. Import duties, B. Export duties.

An Act to alter the Duties of Customs on goods imported or exported by sea.

Portions of Acts &c., repealed.

I. From and after the 12th day of March 1859 inclusive, so much of Schedules A and B annexed to Act XIV. of 1836, so much of Schedules A and B

annexed to Act VI. of 1844, so much of the Schedule annexed to Act IX. of 1845, so much of Schedules A and B annexed to Act I. of 1852, and so much of Sections II, III, and IV. Act XXX. of 1854, as prescribe the rates of duty to be charged on goods imported into or exported from any Port in India by sea, except the Articles of Salt and Opium—are repealed.

Provisions of certain Acts to have reference to Schedules annexed to this Act.

II. From and after the 12th day of March 1859 inclusive, all the provisions now in force of the abovementioned Acts which have reference to the duties of Customs now charged and leviable on goods imported into or exported from any Port in India by sea, shall be taken to have reference to the duties of Customs prescribed in the Schedules annexed to this Act

Proviso.

provided that nothing in this Act shall authorize the levy of duties of Sea Customs at any free Port or be deemed to effect the provisions of Acts VI. and VII. of 1848.

Exception.

III. Nothing in this Act shall apply to Teak Timber exported from the Arracan, Pegu, Martaban, and Tenasserim Provinces.

Contracts or agreements already made.

IV. And whereas contracts or agreements may have been made for the sale or delivery of goods on which increased or additional duties are imposed by this Act, and which contracts or agreements may have been made without reference to such increased duties, and thereby the several contractors may be materially effected—It is therefore further enacted that, if any person shall by virtue of any contract entered into before the passing of this Act be bound to deliver, at any time after the passing of this Act, goods hereby made liable to an increased or additional rate of duty, and shall upon the importation or exportation of any goods which he may deliver in performance of such contract, pay a rate of duty higher than that which was imposed by law on such goods at the time when the contract was entered into, every such person is hereby athorized and empowered to add to the price of such goods a sum equal to the difference between the duty paid under this Act, and the duty which would have been payable under the laws in force when the contract was entered into, and shall have the same remedy for the recovery of such sum as if the same had been part of the price agreed upon.

When this Act shall take effect. Indemnity to Collectors.

V. This Act shall take effect on and after the 12th day of March 1859; and every Collector of Customs and other Officer is hereby indemnified for anything done on or after that day in collecting or enforcing the Duties imposed by this Act or in otherwise carrying into effect the provisions hereof; and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of anything so done.

SCHEDULE A.

Rates of duty to be charged on the following goods imported by sea into any Port of India not being a free Port.

1.	Bullion and Coin, ...	Free.
2.	Precious Stones and Pearls	"
3.	Grain and Pulse	"
4.	Horses and other living Animals.. ...	"
5.	Ice..	"
6.	Coal, Coke, Bricks, Chalk, and Stones (Marbles and wrought stones excepted)	"
7.	Cotton Wool	"
8.	Books	"
9.	Machinery for the improvement of the communications and for development of the resources of the country ..	"

And the Collector of Customs, subject to the general orders of the local Executive Government, shall decide what articles of machinery come within the above definition, and such decision shall be final in law.

10.	Cotton Thread Twist, and Yarn ..	5 per cent. *ad valorem*
11.	Tea	20 "
12.	Coffee	20 "
13.	Tobacco and all preparations thereof	20 "
14.	Spices, including Cassia, Cinnamon, Pepper, Cloves, Nutmegs and Mace	20 "
15.	Haberdashery, Millinery, and Hosiery,	20 "

And the Collector of Customs, subject to the general orders of the local Executive Government, shall decide what articles

come within the above definition, and such division shall be final in law.

16.	Grocery, Confectionery, and Oilman's Stores, ...	20 per cent. *ad valorem.*
17.	Provisions, Hams, and Cheeses.. ..	20 „
18.	Perfumery	20 „
19.	Jewellery, Plate, and Plated-ware .	20 „
20.	Porter, Ale, Beer, Cider, and other similar fermented liquors.	4 annas the imperial gallon.
21.	Wines and Liqueurs.	2 Rupees the imperial gallon.
22.	Spirits	3 Rs. Ditto.

And the duty on Spirits shall be rateably increased as the strength exceeds London proof.

23.	All articles not included in the above enumeration	10 per cent. *ad valorem.*

SCHEDULE B.

Rates of Duty to be charged upon goods exported by sea from any Port in India not being a free Port.

1.	Bullion and Coin, ...	Free.
2.	Precious Stones and Pearls, ...	„
3.	Books, Maps, and Drawings printed in India, ...	„
4.	Horses and other living Animals, ..	„
5.	Cotton Wool, ...	„
6.	Sugar and Rum, ...	„
7.	Spirits, ...	„
8.	Tobacco and all preparations thereof,	
9.	Raw Silk, ...	
10.	Grain and pulse of all sorts, 2as. the..	Indian Maund.
11.	Indigo, ...	3 Rs. the Indian Maund.
12.	Lac Dye and Shell Lac, .. .	4 per cent. *ad valorem.*
13.	All country articles not enumerated or named above, ...	3 per cent. *ad valorem.*

CIVIL PROCEDURE.

ACT No. VIII. OF 1859.

[*Passed on the 22nd March*, 1859.

Recites expediency of simplifying the Civil Procedure of Courts not established by Royal Charter.

1—15. JURISDICTION—(1) to extend to all civil suits, except contrary specially enacted, (2) and to suits already heard, &c. by competent Court; and (3) judgments to be revised &c. only as by this Act is provided. (4) No person to be exempt by reason of birth or descent. (5). Suits for land &c. to be brought in local Court: and other suits where cause of action arose, or defendant at time of suit resides, &c. (6) Suit to be instituted in Court of lowest grade competent to try it but may be removed by District Court or Sudder Court. (7) Cause of action not to be split, but part may be abandoned (8). Any number of causes of action may be joined but (9) Court may order separate trials. (10) Land and mesne profits separately recoverable. (11) Land in several local jurisdictions but within the district may be sued for by leave of district Court: or (12) by leave of Sudder Court where they are in different districts, or (13) if different Sudder Courts have jurisdiction, by leave of either with concurrence of other. (14) In suits for border lands, Court to decide if the lands are within its jurisdiction. (15) Suits may be for merely a declaratory order.

16—24. PRELIMINARY RULES.—(16). Appearance to be in person by pleader or agent; (17) who may be agents, and the effect of agency, (18) respecting appearance by pleaders; (19 and 20) respecting appearance of Officers or Soldiers; (21) women exempted from personal appearance; (22) Government may grant exemption to persons of rank. (23.) Expense of serving process to be borne by person issuing it. (24) False verification of plaint punishable as forgery.

25—40. INSTITUTION OF SUITS.—(25) Suits to be commenced by plaint; (26) what the plaint shall contain; (27) to be verified by plaintiff; and (28) in his absence how. (29) Consequence of defects in plaint; (30) plaint to be returned if value beyond jurisdiction, or (31) rejected if insufficiently stamped; or (32) for no valid cause; and (33) returned if brought in wrong Court. (34) Plaintiffs resident in India and not having land &c in India, to give security for costs; and (35) sole Plaintiff non-resident may be required to give security at any stage &c. (36) Rejection of plaint appealable. (37) Rule in case of suit for land situate in several jurisdictions. (38) Plaint to be registerd in a book; and (39) when on document, document to be produced and copy filed. (40) Plaintiff may require from defendant copy of document.

41—46. THE SUMMONS—(41) to specify what; (42) and for what appear-

ance; and (43) for documents; (44) form of the Summons; (45) when returnable; (46) peculiar in suits against Company, &c.

47—72. ITS SERVICE.—(47) By whom; (48) how; (49) on whom; (50 and 51) on special agent; (52) on Government pleader for Government; (53 and 55) how, when defendant not found; (54, 56) duty of serving officer on service; (57) how when defendant keeps out of the way; (58) respecting substituted service; (59) how when defendant resident within another jurisdiction; how (60) when resident abroad: (61) respecting service in suits for immovable property; (62) when suit is against Government servant; (63) when against corporation. (64) Court may for Summons substitute letter, &c. (65) and send it by post; (66) registered. (67) How to be served in suit against Government; and (68) how against Government officers: and (69) Court may grant them time to refer to Government; and (70) if Government defends, Government pleader may appear, &c. or (71) on default suit to proceed; (72) appearance of public officer may be dispensed with.

73. PARTIES.—Parties may be added.

74—80. ARREST OF PERSON.—(74) Under what circumstances plaintiff may require security, and (75) warrant may be issued to arrest defendant; and (76) bail may be required; or (77) deposit in lieu of bail; or (78) defendant may be committed. (79) In case of vexatious proceedings for arrest, compensation may be given to defendant. (80) Provides for case of defendant about to leave India.

81—91. ATTACHMENT.—(81) Under what circumstances an attachment of property may be obtained. (82) Application for, what it shall specify; and (83 & 84) how Court shall proceed; (85) How to be made; and (86) adverse claims how to be dealt with; (87) Security may be taken in lieu of attachment. (88) Compensation may be given on vexatious application. (89) Effect of attachment. (90) Attachment may be stayed if suit fraudulent. (91) Respecting lands liable to be sold for arrears of revenue.

92—96. INJUNCTIONS.—(92) Under what circumstances injunction against waste, &c. may be obtained, and receiver &c be appointed; and (93) injunctions against breach of contract &c. (94) Order for injunction appealable. (95) Proceedings on application for; and (96) if vexatiously applied for, compensation may be ordered.

97—98. WITHDRAWAL OF SUITS.—(97) Suits may be withdrawn by leave of Court; or (98) compromised and with what effect.

99—106. DEATH &c. OF PARTIES.—(99) Death of either party not to abate the suit but (100 & 101) representative of deceased may be made a party or not according to the nature of the interest. (102) If sole plaintiff dies, Court may abate suit &c., or (103) right to be admitted as representative, if disputed, to be tried. (104) Rules in case of death of defendant. (105) Marriage of female party not to abate suit. (106) Bankruptcy &c. of plaintiff to abate suit, unless assignee give security for costs.

107—108. NOTICES TO PRODUCE.—(107, 108). How to be served.

109—119. APPEARANCE AND NON-APPEARANCE.—(109) Hearing to be on day fixed for appearance; (110) if neither party appears suit to be dismissed, &c. or (111) if only plaintiff appears hearing may be *ex parte*; except (112) on case of non-proof of service of summons &c. or (113) of summons being not served in time. (114) If only defendant appears judgment by default to be given against plaintiff. (115) Joint parties may appear &c. for one another, &c. (116) or Court may proceed on appearance of some only. (117) Respecting parties who do not appear after order to appear; but (118) they may shew excuse. (119) *Exparte* judgments not appealable, but may be set aside and how, &c.

120—124. WRITTEN STATEMENTS.—(120) Parties may put in written statements. (121) Defendant, statement of set-off (122) when to be put in; and (123) how to be framed &c. (124) in regard to prolixity &c.

125—127. EXAMINATION OF PARTIES.—(125) Parties and pleaders may be examined; and (126) judgment may be given against party refusing to answer; and (127) party may be required if pleader refuses to answer.

128—138 DOCUMENTS.—(128) When to be produced; (129) may be rejected by Court; (130) defect of Stamp on to be received by payment of penalty; accounts of which (131) to be kept. (132) Exhibits to be marked; and (133) not liable to stamp duty; and (134) if rejected, retained and (135) if admitted kept where; except (136) in specified case; and (137) receipt for to be given, when returned. (138) Court may send for its own records.

139—143. SETTLEMENT OF ISSUE, AND ISSUES BY AGREEMENT.—(139) Court to frame Issues; and (140) make examination for purpose; and (141) may amend the Issues &c. or (142) Issues may be agreed by parties and (143) Court may give effect to agreement.

144—145. FIRST HEARING.—(144) Court may give judgment at once if parties not at issue, or (145) if they are at issue.

146—148. ADJOURNMENT.—(146) Court may adjourn hearing; and (147) decide on day of adjournment whether parties appear or not; or (148) produce evidence or not.

149—160. SUMMONING OF WITNESSES AND SERVICE OF SUMMONS.—(149) Court may summons witnesses. (150) Application for summons need not be stamped; (151) but expense of witness must be prepaid. (152) Summons shall specify what, and (153) if to produce document; (154) to be served how and when; and (155) on whom, and (156) returned, if not served; and (157) service, when made to be endorsed (158) Summons on witness how to be served. (159) If witness abscond, &c. his property may be attached; and (160) released on his appearance.

161—166. EXAMINATION OF PARTIES.—(161) Parties may be examined; (162) by order of Court; (163) unless cause shown to the contrary; (164) it may be shown in writing; but (165) if good cause not shown order to be made. (166) Court may examine parties for its own satisfaction.

167—171. ATTENDANCE OF WITNESSES.—(167) Witness bound to attend; and (168) in default of attending may be apprehended and (169) being present and refusing to give evidence &c., may be committed; and (170) refusing to produce document, Court may exercise its own discretion. (171) Any person in Court may be examined.

172—174. WITNESS WHEN AND HOW EXAMINED.—(172) To be examined at the hearing, in Court, orally, interpreted when, and when in English: questions when to be taken down: Judge to make abstract Notes of the evidence, or record his reason for not doing so. (173) Witness about to leave jurisdiction may be examined where, &c. (174) All witnesses to be examined on oath or affirmation.

175—182. COMMISSIONS TO EXAMINE WITNESSES.—(175) Witness at distance of more than 100 miles and in other specified cases may be examined under Commission. Commission to issue to whom; and (176) in Presidency towns to small Cause Courts, &c. (177) Commission to be issued by whom, and when by District Court; and (178) when by direction of Sudder Court. (179) Commission how to be returned, and on what condition evidence to be read. (180) Commission may be issued for a local investigation, and what should be done on return of it. (181) Commission may be appointed to investigate accounts. (182) Court may require deposit of costs of Commission from party requiring it.

183—198. JUDGMENT AND DECREE.—(183) Judgment to be pronounced in open Court, (184) in writing in vernacular of the Judge, or in English, and (185) shall contain what points; and (186) shall decide on every issue; and (187) award the costs at its discretion. (188) Costs are to include what, &c. (189) Decree shall contain what; (190) where the suit is for land, and (191) when for moveable Property; and (192) when for damages it may be for specific performance; and (193) if for money, it may give interest; and (194) time to pay by instalments; (195) if set-off allowed amount &c. to be decreed and balance stated for whichever party &c. and (196) in suits for land, mesne profits and interest on them may be decreed; or (197) inquiry into mesne profits may be reserved. (198). Parties entitled to certified copies of judgment and decree, &c.

199—206. EXECUTION OF DECREES.—(199) Land and (200) specific chattel to be delivered to whom adjudged; in other cases decree enforced by attachment of property &c. or (201) by attachment and sale of property or imprisonment against Government how: (202) how for execution of conveyance &c (203) how against representatives of deceased persons; (204) against sureties as against their principals. (205) Describes the kinds of property which may be sold in satisfaction. (206) All money realized in satisfaction to be paid into Court.

207—220. APPLICATION FOR EXECUTION AND INCIDENTS.—(207) May be made by one of several decree-holders, or (208) by assignee of decree-holder and (209) Cross decrees may be set off against one another. (210) May be made against representative of deceased, and (211) executed against him

how. (212) Shall be in what form generally and (213) what, when intended against immovable property; (214) what, when against movable. (215) How the Court shall proceed in general, and (216) how if decree be more than a year old or enforcement be asked of heir &c. and (217) in case no cause against be shown. (218) Applicant may be required to give security to indemnify; and (219) execution debtor may be summond in same manner, (220) as if witness, &c.

221—222. ISSUE OF WARRANT.—(221, 222) What the warrant shall contain.

223—231. EXECUTION AGAINST IMMOVEABLE PROPERTY.—(223) To be by delivery in fact, or (224) by notice and proclamation subject to rights of occupancy. (225) To be how, if for division of an estate or share &c. (226). If obstructed, complaint may be made to Court; and (227) Court may make proper order; (228) and in specified cases may imprison defendant; or (229) if obstructor be *bona fide* claimant Court may investigate claim; and (230) may investigate claim of title set up for third parties: and (231) in two last cases, order appealable.

232—245. EXECUTION OF DECREE FOR MONEY.—(232) To be by attachment of property; (233) in what manner when goods &c. in possession of debtor; and (234) when in possession &c. of third person; (235) when lands, and (236) when debts &c. not negotiable; (237) when in deposit &c. in Court of Justice; (238) when negotiable instruments. (239) Notice of attachment by prohibitory order how to be given; (240) after which alienation to be void; and (241) debt may be paid in to Court; and (242) Court may dispose of property; or (243) may appoint a manager and raise money to mortgage; or (244) by other means on representation of Collector. (245) Attachment to be taken off, on satisfaction of decree.

246—247. OF CLAIMS TO ATTACHED PROPERTY.—(246) To be investigated and how; (247) unless delayed, &c.

248—272. OF SALES IN EXECUTION. (248) To be by public auction, or in case of shares &c. through brokers; and (249) after proclamation and how, and time when; and (250) attachment and sale may be under one order; (251) selling Officer may direct how payment shall be made, if sale be of goods; (252) sale not to be vitiated by irregularity; (253) deposit to be paid on immoveable property; (254) payment to be completed by 15th day, or resale to be made; and (255) on resale fresh notification to be made; (256) sale of immoveable property to require confirmation; and (257) if not confirmed deposit or price to be returned; (258) also if sale set aside; and (259) Certificate to be given to purchaser; and (260) in name of actual purchaser only; and (260) if sale of moveables, delivery to be given to purchaser; or (262) to be secured by notice, if lien exists; and (263) delivery to be given of immoveables, in possession of defendant; or (264) if in possession of ryots, change of interest to be notified; (265) how in case of shares in Companies, &c. (266) negotiable instruments to be delivered (267) with an endorsement

if necessary; (268) what shall be done, if execution be resisted, by defendant, and (269) what if resistance be by stranger; (270) execution to have priority in order of execution, not of judgment; (271) decreeholders without execution to come in rateably; (272) execution obtained by fraud may be applied to satisfy *bona fide* decree.

273—275. OF ARREST IN EXECUTION FOR MONEY.—(273) Discharge from may be obtained under what circumstances: (274) application how to be proceeded with: (275) discharge no protection if obtained by false statement.

276—283. EXECUTION BY IMPRISONMENT.—(276) Defendant entitled to subsistance money at what rate; which (277) may be varied in specified cases. (278) defendant to be released on satisfaction of debt, request of creditor, or default to pay subsistance money; (279) subsistance money to be added to decree: (280) defendant may be discharged on surrender of his property; (281) after inquiry (282) not to be subject to second arrest on same decree except in case of fraud, &c (283) how reserved questions of interest &c. under decree are to be disposed &c. &c.

284—296. EXECUTION IN FOREIGN JURISDICTION.—(284) Decree may be executed in limits of other Jurisdiction; (285) by transmitting copy of decree &c. to foreign Court; (286) with order &c. for foreign Court to execute; (287) what foreign Court shall execute &c. (288) as a decree of its own; and (289) may punish wrongful acts &c. or (290) may in certain cases stay execution &c. for defendant to apply to original Court &c. (291) first taking security if it thinks proper; (292) after which, order of original Court to be final, (293) and defendant may be retaken; and (294) orders of foreign Court to be appealable; (295) execution in military Cantonments, how to be enforced; (296) and rules for execution of decrees to apply to execution of all Judicial orders.

297—311. PAUPER SUITS.—(297) Suits may be brought *in forma pauperis* in all the Courts; except (298) for loss of caste, slander, &c. (299) Permission to be obtained by petition on stamped paper, (300) containing what particulars; (301) to be presented in person except by permission of Court and in case of female; otherwise (302) to be rejected; (303) petitioner to be examined as to merits of claim &c.; and (304) rejected on what gounds; (305) if not rejected, defendant to be summoned, &c.; (306) decide on the petition after cause shown; (307) local enquiry may be ordered; (308) if granted, petition to stand for plaint &c. (309) stamps to be debited in suit &c. (310) refusal of petition not to bar right to sue; (311) orders on petition not appealable.

312—327. REFERENCE TO ARBITRATION.—(312) Parties may obtain leave to refer to arbitration; (313) application to be made, how; (314) arbitrators to be named by parties &c. (315) order of reference to describe the matters referred; and (316) provide for umpirage; (317) arbitrators to have what powers; (318) Court may enlarge time for making award &c. and (319) in

case of death &c. may appoint new arbitrators; (320) award to be submitted to Court with documents &c. and (321) arbitrator may state special case for opinion of Court; and (322) may alter award &c. or (323) in specified cases refer it back; and (324) award to be set aside, except for corruption or misconduct of arbitrators; and (325) Court, except in excepted cases, to give judgment according to award &c. and (326) agreement to refer any differences without suit may be made rule of Court and enforced &c. also (327) award without previous rule of Court may be enforced by Court.

328—331. PROCEEDINGS ON AGREEMENTS OF PARTIES.—(328) Issues may be received for opinion of Court; (329) how to be filed; (330) filing to give Court Jurisdiction; and (331) how to be heard, &c.

332—337. APPEALS.—(332) Gives an appeal, (333) limits time and prescribes form, (334, 5, 6,) further rules respecting forms; (337) gives right to one of several parties to appeal.

338—340. STAYING EXECUTION FOR APPEAL.—(338) Execution not to be stayed except for special cause shown; (339) and on stay, securities may be required; (340) except from Government.

341—362. PROCEDURE IN APPEALS.—(341) Appeal how to be entered; (342) security may be required from appellant; (343) admission of appeal to be notified to lower Court; (344) Day to be fixed for hearing; (345) of which notice to be given; (346) may be dismissed for default of appearance; (347) may be re-admitted, (348) respondent may object to lower Court's decision as well as appellant; (349) Court how to give judgment; (350) judgment not to be reversed for irregularity; (351) case may be remanded; (352) when it may not be remanded: (353) appellate Court not confined to grounds of Lower Court; (354) Appellate Court may direct trial; (355) or call for fresh evidence; (356) to be taken, how; (357) and how limited: (358) general powers of Appellate Court; (359) Court to give judgment in what language; and (360) what the decree is to contain; (361) how to be certified to Lower Court; (362) judgment of, how to be executed.

363—366. APPEALS FROM ORDERS. (363) No appeal from interlocutory order; (364) nor for orders relating to execution; (365) but orders for fines &c. appealable; (366) appeal from, to be as in other cases.

367—371. APPEALS IN FORMA PAUPERIS.—(367) Parties unable to pay stamp duties may appeal *in forma pauperis;* (368) on leave, and how to be applied for; and (369) in what form; (370) to be proceeded with, how, and (371) effect of order.

372—375. SPECIAL APPEALS.—(372) Grounds on which they may be brought; (373) Leave of S. Court must be given (374) and application must set forth grounds (375) and may be rejected if in wrong form.

376—380. REVIEW OF JUDGMENT.—(376) On what grounds review may be obtained, and (377) within what time; (378) refusal of, final (379) to what Judges in the Sudder, and (380) how to be proceeded with.

381—388. MISCELLANEOUS.—(381) Empowers Sudder Court to make

rules of practice. (382) Act not to extend to Supreme and Presidency Small Cause Courts. (383) Saves Jurisdiction &c. of Moonsiffs and village Punchayets in Madras, and of specified Military tribunals and punchayets and (384) certain specified Jurisdictions; (385) and Act not to extend to non-regulation parts till extended thereto; (386) interprets words &c. (387) Act to commence from 1st July 1859 in Bengal, and 1st January 1860, in Madras; and (388) to supersede all other procedure. SCHEDULES A. B. C. and D.

An Act for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.

Preamble.

Whereas it is expedient to simplify the Procedure of the Courts of Civil Judicature not established by Royal Charter, It is enacted as follows:—

CHAPTER I.

OF THE JURISDICTION OF THE CIVIL COURTS.

Civil Courts have cognizance of all suits unless specially barred.

I. The Civil Courts shall take cognizance of all suits of a Civil nature, with the exception of suits of which their cognizance is barred by any Act of Parliament, or by any Regulation of the Codes of Bengal, Madras and Bombay respectively, or by any Act of the Governor General of India in Council.

Unless suits previously heard and determined.

2. The Civil Courts shall not take cognizance of any suit brought on a course of action which shall have been heard and determined by a Court of competent jurisdiction in a former suit between the same parties or between parties under whom they claim.

Revision of judgment of the Civil Courts.

3. The judgments of the Civil Courts shall not be subject to revision, otherwise than by those Courts under the rules contained in this Act applicable to reviews of judgment, and by the constituted Courts of Appellete Jurisdiction.

No person excepted from jurisdiction by reason of place of birth or of descent.

4. No person whatever shall, by reason of place of birth, or by reason of descent, be in any Civil proceeding whatever excepted from the jurisdiction of any of the Civil Courts.

Jurisdiction Civil Courts.

5. Subject to such pecuniary or other limitations as are or shall be prescribed by any law for the time being in force, the Civil Courts of each grade shall receive, try, and determine all suits hereby declared to be

cognizable by those Courts, if in the case of suits for land or other immovable property such land or property shall be situate within the limits to which their respective jurisdictions may extend, and in all other cases if the cause of action shall have arisen, or the defendant at the time of commencement of the suit shall dwell, or personally work for gain, within such limits.

Court in which suit to be instituted.

Transfer of suits.

6. Every suit shall be instituted in the Court of the lowest grade competent to try it. But it shall be lawful for the District Court to withdraw any suit instituted in any Court subordinate to such District Court and to try such suit itself or to refer it for trial to any other Court subordinate to its authority and competent in respect of the value of the suit to try the same, whenever it may see sufficient cause for so doing. In like manner the Sudder Court may order that the cognizance of any suit or appeal which may be instituted in any Court subordinate to such Sudder Court shall be transferred to any other Court subordinate to its authority and competent in respect of the value of the suit or appeal to try the same.

Suit to include the whole claim.

Relinquishment of part of claim.

7. Every suit shall include the whole of the claim arising out of the cause of action, but a Plaintiff may relinquish any portion of his claim in order to bring the suit within the jurisdiction of any Court. If a plaintiff relinquish or omit to sue for any portion of his claim, a suit for the portion so relinquished or omitted, shall not afterwards be entertained.

Joinder of causes of action in the same suit.

8. Causes of action by and against the same parties, and cognizable by the same Court, may be joined in the same suit, provided the entire claim in respect of the amount or value of the property in suit do not exceed the jurisdiction of such Court.

Courts may in certain cases order separate trials of such causes of action.

9. If two or more causes of action be joined in one suit, and the Court shall be of opinion that they cannot conveniently be tried together, the Court may order separate trials of such causes of action to be held.

Claim for recovery of land and for mesne profits to be deemed distinct causes of action.

10. A claim for the recovery of land and a claim for the mesne profits of such land shall be deemed to be distinct causes

of action within the meaning of the two last preceding Sections.

Suits for immovable property situate within different jurisdictions of the same District.

11. If the suit be for land or other immovable property situate within the limits of a single district, but within the jurisdiction of different Courts, the suit may be brought in the Court within the jurisdiction of which any portion of such land or other immovable property is situate, provided the entire claim in respect of the value of the property in suit be cognizable by such Court, but in such case the Court in which the suit is brought shall apply to the District Court for authority to proceed with the same.

Suits for immovable property situate in different District.

12. In like manner, if the property be situate within the limits of different Districts, the suit may be brought in any Court, otherwise competent to try it within the jurisdiction of which any portion of the land or other immovable property in suit is situate, but in such case the Court in which the suit is brought shall apply to the Sudder Court for authority to proceed with the same; if the suit is brought in any Court subordinate to a District Court, the application shall be submitted through the District Court to which such Court is subordinate.

Suits for immovable property situate in Districts subject to different Sudder Courts.

13. If the Districts within the limits of which the property is situate, are subject to different Sudder Courts, the application shall be submitted to the Sudder Court to which the District, in which the suit brought, is subject; and the Sudder Court to which such application is made, may, with the concurrence of the Sudder Court to which the other District is subject, give authority to proceed with the same.

Suit for land situate on the borders of the Court's local jurisdiction and alleged by the defendant to be within another local jurisdiction.

14. If, in a suit for land situate on the borders of the Court's local jurisdiction, the defendant object to the hearing of the suit on the ground that the land is not included within the local jurisdiction of the Court, the Court shall have power to determine the point; and if the Court shall find that the land is included within its local jurisdiction, it shall proceed to try the suit. Provided that, if it be shown that the land in dispute has been adjudged by competent authority to belong to an estate, village, or other

Proviso.

known division of land situate within the local jurisdiction of another Court, the Court in which the suit is brought shall reject the plaint, or return it to the plaintiff in order to its being presented in the proper Court.

Declaratory suit.

15. No suit shall be open to objection on the ground that a merely declaratory decrée or order is sought thereby, and it shall be lawful for the Civil Courts to make binding declarations of right without granting consequential relief.

CHAPTER II.

PRELIMINARY RULES.

Parties may appear in person or by recognized agent or by pleader.

16. All applications to any Civil Court, and all appearances of parties in any Civil Court, except when otherwise specially provided by this Act, shall be made by the party in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Recognized agents.

17. The recognized agents of parties by whom such applications and appearances may be made are.—

Persons holding powers of attorney.

1st. Persons holding general powers of attorney from parties not within the jurisdiction of the Court, authorizing them to make such applications and appearances on behalf of such parties.

Persons carrying on trade or business for absent persons.

2ndly. Persons carrying on trade or business for and in the name of parties not within the jurisdiction of the Court in matters connected with such trade or business only, where no other agent is expressly authorized to make such applications or appearances.

Persons authorized to act for Government.

3rdly. Persons being ex-officio or otherwise authorized to act for Government in respect of any suit or judicial proceeding.

Persons specially appointed to persecute a suit for any Sovereign Prince.

4thly. Persons specially appointed by order of Government at the request of any Sovereign Prince, or Independent Chief, whether residing within or without the British Territories, to prosecute or defend a suit on his behalf.

Whenever the personal appearance of a party to a suit is re-

Acts required to be done by a party to a suit in person may be done by his recognized agent.

quired by this Act, such appearance may be made by his recognized agent, unless the Court shall otherwise direct; and any thing which by this Act is required or permitted to be done by a party in person may be done by his recognized agent. Notices given

Service of notice &c. on recognized agents.

to or processes served on a recognized agent relative to a suit shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct; and all the provisions of this Act relative to the service of notices or processes on a party to a suit shall be applicable to the service of notices and processes on such recognized agents.

18. The appointment of a pleader to make any such application or appearance as aforesaid shall be in writing, and shall be filed in the Court. When so filed, it shall be considered to be in full force until revoked by a writing filed in the Court. All notices given to, or processes served on the pleader of any party,

Appointment of pleader.

Service of notice on pleaders.

or left at the office or ordinary residence of such pleader, relative to a suit, and whether the same be for the personal attendance of the party or not, shall be presumed to be duly communicated and made known to the party whom the pleader represents, and shall be as effectual for all purposes in relation to the suit as if the same had been given to or served on the party in person, unless the Court shall otherwise direct.

19. When an Officer or Soldier in the service of the Government is a party to a suit, and cannot obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person, he may authorize any member of his family or any other person to commence, conduct, and manage the suit or the defence, as the case may be, in his stead. The authority shall be in writing, and shall be signed by the Officer or Soldier in the presence of his Commanding Officer, who shall countersign the same, and it shall be filed in the Court. When so filed, the counter-signature of the Commanding Officer shall be sufficient proof that the authority was duly executed, and

Officers or Soldiers who cannot obtain leave of absence may authorize any person to appear for them.

that the Officer or Soldier by whom it was granted could not obtain a furlough or leave of absence for the purpose of prosecuting or defending the suit in person.

The person so authorized may appear personally, or appoint pleader.

20. Any person who may be authorized, as in the last preceding Section mentioned, by an Officer or Soldier to prosecute or defend a suit in his stead, shall be competent to prosecute or defend it in person in the same manner as the Officer or Soldier could do if present; or he may appoint a pleader of the Court to prosecute or defend the suit on behalf of such Officer or Soldier. And all notices or processes relative to the suit which may be served upon any person who shall be so authorized as aforesaid by an Officer or Soldier, or upon any pleader who shall be appointed as aforesaid by such person to act for or on behalf of such Officer or Soldier, shall be as effectual for all purposes relative to the suit as if the same had been served on the party in person or on a pleader appointed by him.

Exemption of certain women from personal appearance.

21. Women, who according to the custom and manners of the country ought not to be compelled to appear in public, shall be exempt from personal appearance in Court.

Government may exempt certain persons from personal appearance.

22. The Government may at its discretion exempt from personal appearance in Court any person whose rank in the opinion of the Government entitles him to the privilege of exemption, and may at its discretion withdraw such privilege. The names of the persons so exempted (if any) residing within the jurisdiction of the Principal Civil Court of each District shall from time to time be forwarded to such Court by the local Government, and a list of such persons (if any) shall be kept in such Court and in the several subordinate Courts of the District.

Cost of serving process.

Requisite sum to be paid into Court before process issued.

23. Every process required to be issued under this Act, shall be served at the expense of the party at whose instance it is issued, unless otherwise specially directed by the Court; and the sum required to defray the cost of such service shall be paid into Court before the process is issued.

24. If any plaint, written statement, or declaration in writing

Punishment for false verification of plaint, statement, &c.

required by this Act to be verified shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provision of the law for the time being in force for the punishment of giving or fabricating false evidence.

CHAPTER III.

OF A SUIT TILL FINAL DECREE,

OF THE INSTITUTION OF SUITS.

Suits to be commenced by plaint.

25. All suits shall be commenced by a plaint which, except when otherwise specially provided by this Act, shall be presented to the Court by the plaintiff in person, or by his recognized agent, or by a pleader duly appointed to act on his behalf.

Particulars to be given in the plaint.

26. The plaint shall be distinctly written in the language in ordinary use in proceedings before the Court and shall contain the following particulars:—

1.— The name, description, and place of abode of the plaintiff.

2.—The name, description, and place of abode of the defendant, so far as they can be ascertained.

3.—The relief sought for, the subject of the claim, the cause of action and when it accrued; and if the cause of action accrued beyond the period ordinarily allowed by any law for commencing such a suit, the ground upon which exemption from the law is claimed.

The following are instances:—

If the suit be for money due on a bond or other written instrument:—Payment of due on *(a bond or other written instrument as the case may be)*, for the sum of , bearing date the day of and payable on the day of , namely,—

Principal.. .. ..
Interest .. ..
Amount paid (if any) .. ..

Balance due ....

If the plaintiff claim exemption from any law of limitation say—"The plaintiff was an infant (*or as the case may be*) from the day of to the day of "

If the suit be for the price of goods sold:—Payment of on account of maunds of (*rice, indigo, sugar, or as the case may be*) sold on the day of, and the price of which became payable on the day of as per accountat foot.

If the suit be for damages for an injury done:—Payment of on account of injury done to the plaintiff [*here set out the nature of the injury, and state the particulars of the pecuniary loss (if any).*]

4.—When the claim is for any property other than money, its estimate value.

The follwing is an instance:

If the suit be for an estate or for a share in an estate paying Revenue to Government:—Possession of the estate or of share in the estate, called , situate in the Zillah of the sudder jumma of which is and estimated value which the plaintiff was dispossessed (*or forcibly or fraudulently dispossessed, if the case be so*) on the day of ; or to which the plaintiff became entitled by inheritance from (*or by gift, purchase, or otherwise, as the case may be*) on or about the day of

5—.When the claim is for land or for any interest in land, the nature of the tenure or interest must be specified; and if the claim be for land forming part of a village or other known division, or for a house, garden, or the like, its situation shall be described by the setting forth of boundaries, or in such other manner as may suffice for its identification.

6.—In all suits by or against the Government, or one of its Officers in his official capacity, or any Corporation, or any Company authorized to sue and be sued in the name of an Officer or Trustees, the words "The Government," or "The Collector of " or otherwise as the case may be, or the name of the Corporation, or the name or names of the Officer or Trustees of

the Company, shall be inserted in Nos. 1 and 2 instead of the name and description of the plaintiff or defendant. But in all other cases it shall be necessary to specify the names of all the parties.

Plaint to be subscribed and verified.

27. The plaint shall be subscribed by the plaintiff and his pleader (if any), and shall be verified at the foot by the plaintiff in the manner following or to the like effect :—

I (A. B.) the plaintiff named in the above plaint do declare that what is stated therein is true to the best of my information and belief.

If plaintiff by reason of absence be unable to subscribe and verify the plaint.

28. If the plaintiff, by reason of absence or for other good cause, be unable to subscribe and verify the plaint, the Court may allow the plaint to be subscribed and verified on behalf of the plaintiff by any person whom the Court may consider competent to make the verification. In suits by a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the plaint shall be subscribed and verified on behalf of the Corporation or Company by any Director Secretary, or other principal Officer of the Corporation or Company who may be able to depose to the facts of the case.

In suits by a Corporation or Company a Director or Secretary shall verify the plaint.

Court may reject plaint, if it do not contain the required particulars, &c.

29. If the plaint do not contain the several particulars hereinbefore required to be specified therein, or if it contain particulars other than those required to be specified whether relevant to the suit or not, or if the statement of particulars be unnecessarily prolix, or if the plaint be not subscribed and verified as hereinbefore required, the Court may reject the plaint, or at its discretion may allow the plaint to be amended.

Plaint to be returned, if the claim is beyond the jurisdiction of the Court.

30. If the amount or estimated value of the claim, as stated by the plaintiff, be beyond the jurisdiction of the Court, the plaint shall be returned to the plaintiff in order to its being presented in the proper Court.

31. If it appear to the Court that the claim is improperly

Plaint to be rejected, if improperly or insufficiently valued.

valued, or being properly valued that the plaint is written upon stamped paper of inadequate value, and the plaintiff, on being required by the Court to correct such improper valuation or to supply such additional stamp paper as may be necessary, shall not comply with the requisition, the Court shall reject the plaint.

Plaint to be rejected, if it appear to the Court that plaintiff has no cause of action or that right of action is barred by lapse of time.

Amendment of plaint.

32. If upon the face of the plaint, or after questioning the plaintiff, it appear to the Court that the subject matter of the plaint does not constitute a cause of action, or that the right of action is barred by lapse of time, the Court shall reject the plaint. Provided that the Court may in any case allow the plaint to be amended, if it appear proper to do so.

Plaint to be returned if it appear to the Court that it has not jurisdiction.

33. If it appear to the Court that the cause of action did not arise, or that the defendant is not dwelling or personally working for gain within the limits of the jurisdiction of the Court, or, if the claim relate to land or other immovable property, that such land or other property is not situate within such limits the Court shall return the plaint to the plaintiff in order to its being presented in proper Court.

Security for costs to be furnished by plaintiff at the time of presenting the plaint, if he resides out of the British territories in India.

34. A suit by a party ordinarily residing out of the British territories in India, and not possessing any land or other immovable property within those territories independent of the property in suit, shall not be entertained unless the plaintiff, at the time of presenting the plaint or within such time as the Court shall order, furnish security for the payment of all costs that may be incurred by the defendant in the suit. In the event of such security not being furnished, the Court shall return the plaint to the plaintiff.

Plaint to be rejected if security be not furnished.

Security for costs may be required in any stage of suit, if it appear that plaintiff resides out of India.

35. If in any stage of a suit it shall appear to the Court that the plaintiff (being sole plaintiff) is a person residing out of the British territories in India, the Court may order him, within a time to be fixed by such order, to furnish security for the payment of all costs incurred and to be incurred by the

defendant in the suit. In the event of such security not being furnished within the time so fixed, the Court shall pass judgment against the plaintiff by default, unless he be permitted to withdraw from the suit under the provisions of Section 97.

Appeal from order rejecting plaint.

36. Whenever a plaint is rejected under any of the foregoing Sections, an appeal shall lie from the order rejecting the plaint. The rejection of a plaint on any of the grounds mentioned in Sections 29 and 31 shall not preclude a plaintiff from presenting a fresh plaint in respect of the same cause of action.

Proceeding in a suit for immovable property in different jurisdictions.

37. If the suit be for land or other immovable property situate partly within the jurisdiction of the Court and partly within the jurisdiction of some other Court or Courts, the Court shall proceed according to the rules contained in Section 11, Section 12, or Section 13, as the case may be.

When the plaint is admissible, particulars to be entered in a Register.

38. If the Court consider the plaint admissible, the particulars mentioned in Section 26 of this Chapter shall be entered in a book to be kept for the purpose, and called the Register of Civil Suits; and the entries shall be numbered in every year according to the order in which the plaint is presented. The Register shall be kept in the form contained in the Schedule (A) hereunto annexed.

Form of the Register.

Written document to be produced in Court when plaint is presented.

39. When the plaintiff sues upon any written document or relies upon any such document as evidence in support of his claim, he shall produce the same in Court when the plaint is presented, and shall at the same time deliver a copy of the document to be filed with the plaint; if the document be an entry in a shop-book or other book, the plaintiff shall produce the book to the Court together with a copy of the entry on which he relies. The Court shall forthwith mark the document for the purpose of identification; and after examining and comparing the copy with the original, shall return the document to the plaintiff. The plaintiff may, if he think proper, deliver the original document to be filed instead of the copy. The Court may, if it see sufficient cause, direct any

And copy filed with plaint.

Original to be marked and returned.

If plaintiff wish, original may be filed instead of copy.

Court may order document to be impounded.

written document so produced to be impounded and kept in the custody of some Officer of the Court, for such period and subject to such conditions as to the Court shall seem meet. Any document not produced in Court by the plaintiff when the plaint is presented, shall not be received in evidence on his behalf at the hearing of the suit without the sanction of the Court.

Document not produced when plaint filed, to be inadmissible in evidence.

40. If the plaintiff require the production of any written document in the possession or power of the defendant, he may, at the time of presenting the plaint, deliver to the Court a description of the document, in order that the defendant may be required to produce the same.

If plaintiff require production of document in possession of defendant.

Of Summoning the Defendant.

41. When the plaint has been registered, a summons under the signature of the Judge and the seal of the Court shall be issued to the defendant to appear and answer the claim, on a day to be therein specified, in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or by a pleader who shall be accompanied by some other person able to answer all such questions. The Court shall determine at the time of issuing the summons whether it shall be for the settlement of issues only or for the final disposal of the suit, and the summons shall contain a direction accordingly.

On plaint being registered, summons to issue to defendant.

Summons to be either to settle the issues, or for the final disposal of the case.

42. If the Court see reason to require the personal attendance of the defendant, the summons shall order the defendant to appear personally in Court on the day therein specified. If the Court see reason to require the personal attendance of the plaintiff on that day, it may make an order for such attendance. Provided that no plaintiff or defendant shall be ordered to attend in person, who at the time is *bonâ fide* residing at a distance of more than fifty miles from the place where the Court is held, unless he be resident within the limits of the jurisdiction of the Court.

Personal appearance of defendant or plaintiff.

If resident within 50 miles.

Or within the local jurisdiction of the Court.

43. The summons to appear shall order the defendant to produce any written document in his possession or power, of which the plaintiff demands inspection, or upon which the defendant intends to rely in support of his defence.

Summons shall order defendant to produce documents.

44. The summons shall be in the Form contained in the Schedule (B) hereunto annexed or to the like effect.

Form of summons.

45. The day for the appearance of the defendant shall be fixed by the Court with reference to the place of residence of the defendant, and the time necessary for the service of the summons; and the day shall be so fixed as to allow the defendant a sufficient time to enable him to appear and answer in person or by a pleader on such day.

The day for appearance of defendant how to be fixed.

46. In suits against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the Court may, if it think proper, require the personal attendance of any Director, Secretary, or other principal Officer of the Corporation or Company who may be able to answer all material questions relating to the suit.

Court may order personal appearance of a Director or Security in suits against a Corporation or Company.

Service of Summons on the Defendant.

47. The summons shall be delivered to the Nazir or other proper Officer of the Court to be served by himself or one of his subordinates, and such Officer shall be responsible for its due service.

Summons shall be served by Officer of Court

48. Service of the summons shall be made by delivering or tendering a copy thereof under the signature of the Judge and seal of the Court; and when there are more defendants than one, service of the summons shall be made on each defendant.

How service shall be made.

When there are several defendant

49. Whenever it may be practicable the service shall be on the defendant in person, unless he have an agent empowered to accept the service, in which case service on such agent shall be sufficient.

Service to be on defendant in person, when practicable.

Service on agent sufficient.

50. Besides the recognized agents described in Section 17

Who may be an agent to receive service.

any person residing within the jurisdiction of the Court may be appointed an agent to receive the service of summonses and other processes.

Appointment of such agent to be in writing and to be filed in Court.

51. The appointment of such agent shall be in writing, and the orignal appointment, or a copy thereof if the appointment be a general one, shall be filed in the Court.

Agent of Government.

52. The Government pleader in each Court shall be accounted the agent of the Government for the purpose of receiving services of summonses and other judicial processes against the Government, issuing out of the Court in which he may be the pleader of Government.

If defendant cannot be found, and has no agent, service may be made on a male member of his family.

53. When the defendant cannot be found, and has no agent empowered to accept the service of the summons, it may be made on any adult male member of his family residing with him.

In all cases the person served is to be required to endorse the summons.

54. In all cases where the summons is served on the defendant personally or any agent or other person on his behalf, the serving Officer shall require the signature of the person on whom the service may be made, to an acknowledgment of service, to be endorsed on the original summons or on a copy thereof under the seal of the Court. If such person refuse to sign the acknowledgment, the service of the summons shall nevertheless be held sufficient, if it be otherwise proved to the satisfaction of the Court.

But service is sufficient without.

If the summons cannot be served, a copy shall be fixed to the door of the dwelling house.

55. When the defendant cannot be found, and there is no agent empowered to accept the service, nor any other person on whom the service can be made, the serving Officer shall fix the copy of the summons on the outer door of the house in which the defendant is dwelling: and if he is not dwelling in the place mentioned in the summons, the serving Officer shall return the summons to the Court from whence it issued with an endorsement thereon that he has been unable to serve it. Provided that, if the serving Officer is informed that the defendant is to be found or has his dwelling in a place within the jurisdiction of

If defendant do not dwell in the place mentioned, the summons shall be returned with an endorsement of non-service.

Proviso.

the Court other than that indicated in the summons, the Officer may proceed to that place to serve the summons.

If served, time and manner of service to be endorsed on summons.

56. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons or on a copy thereof under the seal of the Court, the time when and the manner in which it was served.

When summons is returned unserved, Court to order substituted service, if satisfied that the defendant is avoiding service.

57. When a summons is returned to the Court without having been served, if the plaintiff shall satisfy the Court that there is reasonable ground for believing that the defendant is keeping out of the way of its Officer for the purpose of avoiding the service of the summons, the Court shall order the summons to be served by fixing up a copy thereof upon some conspicuous place in the Court-house, and also upon the door of the house in which the defendant shall have last resided, if it be known where he last resided; or that the summons shall be served in such other manner as the Court shall think proper. And the service which shall be substituted by order of the Court, shall be as effectual to all intents and purposes as if it had been effected in the manner above specified.

When service is substituted, the time for appearance to be fixed.

58. Whenever service shall be substituted by order of Court by virtue of the power contained in the last preceding Section, the Court shall fix such time for the appearance of the defendant as the case may require.

How the summons is to be served when the defendant is resident within the jurisdiction of another Court and has no agent to accept service.

59. If the defendant be resident within the jurisdiction of any Court other than that in which the suit is instituted, and have no agent empowered to accept the service, the Court in which the suit is instituted shall transmit the summons, either by an Officer of the Court or by post, to any Court having jurisdiction at the place where the defendant resides, by which it can be most conveniently served, and shall fix such time for the appearance of the defendant as the case may require; and the Court to which the summons is transmitted, shall, upon receipt of the summons, deliver the same to the Nazir or other proper Officer of such Court to be served in the manner above directed; and upon the return of the sum-

mons by the serving Officer, it shall be re-transmitted to the Court from whence it originally issued.

How the summons is to be served when the defendant resides out of the British territories in India and has no agent to accept service.

60. If the defendant be resident out of the British territories in India, and have no agent empowered to accept the service, the summons shall be addressed to the defendant at the place where he may reside, and forwarded to him by post: in such case the time for the appearance of the defendant shall be regulated by the time which may be required for communication by post between the place at which the Court is held and the place where the defendant resides; and if, on the day fixed for the hearing of the suit or on any day to which the hearing may be adjourned, the defendant shall not appear in person or by pleader, the plaintiff may apply to the Court, and it shall be lawful for the Court to direct that the plaintiff shall be at liberty to proceed with his suit in such manner and subject to such conditions as to the Court may seem meet.

Time for appearance.

In case of non-appearance of defendant, Court may direct suit to proceed subject to conditions.

In suit for immovable property, service may in certain cases be made on agent in charge of such property.

61. When the suit is for land or other immovable property and the summons for any reason cannot be served on the defendant in person, and the defendant has no agent empowered to accept the service, the summons may be served on any agent of the defendant in charge of such land or other immovable property.

How service may be made on Government Servants.

62. When the defendant is in the serve of the Government, the Court may transmit a copy of the summons to the head Officer of the Office in which the defendant is employed, for the purpose of being served on him, if it shall appear to the Court that the summons may be most conveniently so served. If the defendant be an Officer or Soldier, the Court shall transmit a copy of the summons to the Commanding Officer of the Corps to which the defendant belongs, for the purpose of being served on him. The Officer to whom the summons is transmitted, after causing the summons to be served on the person to whom it is addressed if practicable, shall return it to the Court with the written acknow

Service on Officers and Soldiers.

ledgment of person endorsed thereon. If from any cause the summons cannot be served upon the person to whom it is addressed, it shall be returned to the Court by which it was transmitted with information of the cause which has prevented the service. In such case the Court shall adopt such other means of serving the summons as it may deem proper.

Service on a Corporation or Company.

63. When the suit is against a Corporation or a Company authorized to sue and be sued in the name of an Officer or Trustees, the summons may be served by leaving the same at the registered Office (if any) of the Company, or sending it through the Post Office by a letter addressed to such Office, or by giving it to any Director, Secretary, or other principal Officer of the Corporation or Company.

In what case a letter may be substituted for a summons.

64. Nothing contained in the preceding rules shall be construed to prevent the Court from substituting for the summons, a letter or other appropriate communication under the signature of the Judge and seal of the Court, when the person whose appearance is required is of a rank which entitles him to such mark of consideration. The letter or other communication shall contain all the particulars required to be stated in the summons, and shall be treated in all respects as a summons.

Service how to be made in such case.

65. When a letter or other communication is substituted for a summons under the authority of the last preceding Section, it may be transmitted through the Post Office, or by a special messenger selected by the Court, or in any other manner which the Court may deem sufficient; unless the party shall have an agent empowered to accept service of Judicial process, in which case delivery to such agent shall be deemed sufficient service.

Proof of due service and delivery of summons, letter, &c. transmitted through the post.

66. Whenever it is provided that any summons, letter or other communication may be transmitted to the person to whom it is addressed through the Post Office, proof that the same was correctly addressed to such person at his place of residence, and that it was duly posted and registered according to Section XXXVIII. of Act XVII. of 1854 *(for the management of the Post Office, for the regulation of the duties of*

Postage, and for the punishment of offences against the Post Office), shall be sufficient proof of the due service and delivery of the summons, letter, or other communication, in the absence of evidence to the contrary.

OF SUITS AGAINST GOVERNMENT AND PUBLIC OFFICERS.

In suits against Government, summons to be served on Government Pleader.

67. If the suit be against the Government, the summons shall be served on the Government Pleader. The Court, in fixing the day for the Government to answer to the plaint, shall allow a reasonable time for the necessary communication with the Government through the proper channels, and for the issue of instructions to the Government Pleader to appear and answer on behalf of the Government, and may extend the time at its discretion on the application of the Government Pleader. The Court may also, if it think proper, direct the attendance of a person who may be able to answer all material questions relating to the suit.

Appearance and answer.

In suits against Government Officers for alleged Official acts, summons to be served on them.

68. If the suit be against an Officer of the Government for an act which the plaintiff alleges to have been done by such Officer in his official capacity, the summons shall be served upon such Officer in the manner hereinbefore provided.

Court may grant extension of time to enable Officer to make a reference to Government.

69. If the Officer on receiving the summons shall consider it proper to make a reference to Government before answering to the plaint, he may move the Court to grant such extension of the time fixed in the summons as may be necessary to enable him to make such reference and to receive orders thereon through the proper channels; and the Court upon such motion may extend the time for so long as shall appear to it to be requisite.

If Government undertake defence, Government Pleader to appear and move that a note of his appearance be entered in the Register.

70. If the Government shall undertake the defence of the suit, the Government Pleader shall be furnished with authority to appear and answer to the plaint; and, upon motion made by him, the Court shall order a note to that effect to be entered in the Register.

71. If such motion shall not be made by the Government

If no such motion be made, case to proceed as in a suit between private parties.

But defendant not liable to arrest before judgment.

Pleader on or before the day fixed in the notice for the defendant to appear and answer to the plaint, the case shall proceed as in a suit between private parties except that the defendant shall not be liable to arrest before judgment.

Defendant may in certain cases be exempted from personal appearance.

72. If in any such suit the Court shall require the personal appearance of the defendant, and the defendant shall satisfy the Court that he cannot absent himself from his duty without injury to the public service, the Court shall exempt him from such appearance, but he shall be liable to be examined in any way in which an absent witness may be examined.

How Persons not before the Court may be made Parties to a Suit.

Court may adjourn hearing and direct that parties appearing to be interested in a suit shall be made parties to the suit.

73. If it appear to the Court, at any hearing of a suit, that all the persons who may be entitled to, or who claim some share or interest in the subject matter of the suit, and who may be likely to be affected by the result, have not been made parties to the suit, the Court may adjourn the hearing of the suit to a future day to be fixed by the Court, and direct that such persons shall be made either plaintiffs or defendants in the suit as the case may be. In such case the Court shall issue a notice to such persons in the manner provided in this Act for the service of a summons on a defendant.

Of Arrest before Judgment.

In suits for moveable property, when defendant is about to leave the jurisdiction, &c. plaintiff may apply that security be taken.

74. If in any suit, not being a suit for land or other immovable property, the defendant, with intent to avoid or delay the plaintiff, or to obstruct or delay the execution of any decree that may be passed against him, is about to leave the jurisdiction of the Court, or has disposed of or removed from the jurisdiction of the Court his property or any part thereof, the plaintiff may, either at the institution of the suit, or at any time thereafter until final judgment, make an application to the Court that security be taken for the appear-

ance of the defendant to answer any judgment that may be passed against him in the suit.

Court may issue warrant to bring up defendant to show cause why he should not give bail.

75. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be of opinion that there is probable cause for believing that the defendant is about to leave its jurisdiction with the intent of avoiding or delaying the plaintiff, or that he has disposed of or removed from the jurisdiction of the Court his property or any part thereof with the intent to obstruct or delay the execution of any decree, it shall be lawful for the Court to issue a warrant to the proper Officer, enjoining him to bring the defendant before the Court, that he may show cause why he should not give good and sufficient bail for his appearance.

If defendant fail to show cause, Court may order him to give bail.

76. If the defendant fail to show such cause, the Court shall order him to give bail for his appearance at any time when called upon while the suit is pending, and until execution or satisfaction of any decree that may be passed against him in the suit; and the surety or sureties shall undertake, in default of such appearance, to pay any sum of money that may be adjudged against the defendant in the suit, with costs. Any order made by the Court, under the provisions of this Section, shall be open to appeal by the defendant.

Appeal.

Deposit in lieu of bail.

77. Should a defendant offer, in lieu of bail for his appearance, to deposit a sum of money or other valuable property sufficient to answer the claim against him, with the costs of the suit, the Court may accept such deposit.

Defendant to be committed to custody if he cannot give security.

78. In the event of the defendant neither furnishing security nor offering a sufficient deposit, he may be committed to custody until the decision of the suit, or if judgment be given against the defendant until the execution of the decree if the Court shall so order.

Compensation to defendant arrested on insufficient grounds.

79. If it shall appear to the Court that the arrest of the defendant was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or

otherwise and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for any injury or loss which he may have sustained by reason of such arrest. Provided the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such arrest.

Proviso as to amount.

80. If in any suit the defendant is about to leave the British territories in India with intent to remain absent so long that the plaintiff will or may thereby be obstructed or delayed in the execution of any decree that may be passed against the defendant, the plaintiff may make an application to the Court to the effect and in the manner aforesaid, and the procedure thereupon shall be in all respects the same as herein before provided.

When the defendant is about to leave India, the application to be made to the Court.

Of Attachment before Judgment.

81. If the defendant, with intent to obstruct or delay the execution of any decree that may be passed against him, is about to dispose of his property or any part thereof, or to remove any such property from the jurisdiction of the Court where the suit is pending, the plaintiff may apply to the Court, either at the time of the institution of the suit or at any time thereafter until final judgment, to call upon the defendant to furnish sufficient security to fulfil any decree that may be passed against him in the suit, and, on his failing to give such security, to direct that any property, movable or immovable, belonging to the defendant, shall be attached until the further order of the Court.

In what cases plaintiff may apply before judgment for security from defendant to fulfil decree, and in default for an attachment of defendant's property.

82. The application shall contain a specification of the property required to be attached, and the estimated value of each article or item thereof,

Application how to be made.

and the plaintiff shall, at the time of making the application declare that the defendant is about to dispose of or remove his property with such intent as aforesaid.

Form of warrant to be issued.

83. If the Court, after examining the applicant and making such further investigation as it may consider necessary, shall be satisfied that the defendant is about to dispose of or remove his property with intent to obstruct or delay the execution of the decree, it shall be lawful for the Court to issue a warrant to the proper Officer, commanding him to call upon the defendant, within a time to be fixed by the Court, either to furnish security in such sum as may be specified in the order to produce and place at the disposal of the Court, when required the said property or the value of the same or such portion thereof as may be sufficient to fulfil the decree, or to appear and show cause why he should not furnish security. The Court may also in the warrant direct the attachment until further order of the whole or any portion of the property specified in the application.

If cause be not shown or security be not furnished, property may be attached.

84. If the defendant fail to show such cause or to furnish the required security within the time fixed by the Court, the Court may direct that the property specified in the application, if not already attached, or such portion thereof as shall be sufficient to fulfil the decree, shall be attached until further order. If the defendant show such cause or furnish the required security, and the property specified in the application or any portion of it shall have been attached, the Court shall order the attachment to be withdrawn.

Withdrawal of attachment.

How the attachment is to be made.

85. The attachment shall be made according to the nature of the property to be attached, in the manner hereinafter prescribed for the attachment of property in execution of a decree for money. Any order for the attachment of property under the preceding Section shall be open to appeal by the defendant.

Appeal.

Claims to property attached before judgment, how to be investigated.

86. In the event of any claim being preferred to the property attached before judgment, such claim shall be investigated in the manner hereinafter prescribed for the investigation of claims to property attached in execution of a decree for money.

87. In all cases of attachment before judgment, the Court which passed the order for the attachment shall at any time remove the same, on the defendant furnishing security as above required together with security for the costs of the attachment.

Attachment may be removed when security is furnished.

88. If it shall appear to the Court that the attachment was applied for on insufficient grounds, or if the suit of the plaintiff is dismissed or judgment is given against him by default or otherwise and it shall appear to the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such amount, not exceeding the sum of one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the attachment of his property. Provided that the Court shall not award a larger amount of compensation under this Section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of such attachment.

Compensation for attachment applied for on insufficient grounds, &c.

Proviso.

89. Attachments before judgment shall not affect the rights of persons not parties to the suit, nor bar any person holding a decree against the defendant from applying for the sale of the property under attachment in execution of such decree.

Attachment not to affect the rights of person not parties to the suit, or bar the execution of decrees.

90. If it shall appear to the Court by whose order the property may have been attached before judgment, that there is reasonable ground for supposition that the decree, in satisfaction of which the sale of the property is applied for was obtained by fraud or other improper means, the Court may refuse to allow the property to be sold in execution, if the decree be a decree of that Court; or if it be a decree of another Court, may stay the proceedings for a reasonable time to enable the plaintiff in the pending suit to adopt proceedings to set aside the decree.

Court may stay the sale of property already under attachment when execution of a decree fraudulently obtained is applied for.

91. Whenever lands paying revenue to Government or a tenure liable to summary sale under the provisions of Regulation VIII. 1819 of the

Special case in which party may be

put in immediate possession of land the subject of suit.

Bengal Code *(to declare the validity of certain tenures and to define the relative rights of Zemindars and Putnee Talookdars &c.)* form the subject of a suit, if the party in possession of such lands or tenure shall neglect to pay the Government revenue or rent due to the proprietor of the estate, as the case may be, and a public sale shall in consequence be ordered to take place, the party not in possession shall, upon payment of the revenue or rent due previously to the sale (and with or without security at the discretion of the Court) be put in immediate possession of the lands or tenure; and the Court in its decree may award against the defendant the amount so paid, with interest thereupon at such rate as to the Court may seem fit, or may charge the amount so paid, with interest thereupon, at such rate as the Court may order, in any adjustment of accounts which may be directed in the final decree upon the suit.

Of Injunctions.

Cases in which an injunction to stay waste, &c. may be granted.

92. In any suit in which it shall be shown to the satisfaction of the Court that any property which is in dispute in the suit is in danger of being wasted, damaged, or alienated by any party to the suit, it shall be lawful for the Court to issue an injunction to such party, commanding him to refrain from doing the particular act complained of, or to give such other orders for the purpose of staying and preventing him from wasting, damaging, or alienating the property, as to the Court may seem meet. And in all cases in which it may appear to the Court to be necessary for the preservation or the better management or custody of any property which is in dispute in a suit, it shall be lawful for the Court to appoint a receiver or manager of such property, and, if need be, to remove the person in whose possession or custody the property may be from the possession or custody thereof, and to commit the same to the custody of such receiver or manager and to grant to such receiver or manager all such powers for the management or the preservation and improvement of the property, and the collection of the rents and profits thereof, and the application and disposal of such rents and profits, as to the Court may seem proper. If the property

Or in which a receiver or manager may be appointed.

When the Collector may be appointed receiver or manager.

be land paying revenue to Government, and it is considered that the interests of those concerned will be promoted by the management of the Collector, the Court may appoint the Collector to be receiver and manager of such land, unless the Government shall by any general order prohibit the appointment of Collectors for such purpose, or shall in any particular case prohibit the appointment of the Collector to be such receiver.

In suits to restrain breach of contract &c.

93. In any suit for restraining the defendant from the committal of any breach of contract or other injury, and whether the same be accompanied with any claim for damages or not, it shall be lawful for the plaintiff, at any time after the commencement of the suit, and whether before or after judgment, to apply to the Court for an injunction

Injunction to restrain repetition or continuance of breach.

to restrain the defendant from the repetition, or the continuance of the breach of contract or wrongful act complained of, or the committal of any breach of contract or injury of a like kind arising out of the same contract or relating to the same property or right; and such injunction may be granted by the Court on such terms as to the duration of the injunction, keeping an account, giving security, or otherwise, as to such Court shall seem reasonable and just, and in case of disobedience such injunction may be enforced by imprisonment in the same manner as a decree for specific performance: provided always that any order for an injunction may

Proviso.

be discharged or varied or set aside by the Court, on application made thereto by any party dissatisfied with such order.

Appeal.

94. Any order made under either of the last two preceding Sections shall be open to appeal by the defendant.

Before granting injunction, Court may direct reasonable notice to be given to the opposite party.

95. The Court may in every case before granting an injunction direct such reasonable notice of the application for the same to be given to the opposite party as it shall see fit.

Compensation to defendant for needless issue of injunction.

96. If it shall appear to the Court that the injunction was applie for on insufficient grounds, or if the claim of the plaintiff is dismissed or judgment is given against him by default or otherwise and it shall appear to

the Court that there was no probable ground for instituting the suit, the Court may (on the application of the defendant) award against the plaintiff in its decree such sum, not exceeding one thousand Rupees, as it may deem a reasonable compensation to the defendant for the expense or injury occasioned to him by the issue of the injunction. Provided that the Court shall not award a larger amount of compensation under this section than it is competent to such Court to decree in an action for damages. An award of compensation under this Section shall bar any suit for damages in respect of the issue of the injunction.

Proviso.

OF THE WITHDRAWAL AND ADJUSTMENT OF SUITS.

97. If the plaintiff at any time before final judgment satisfy the Court that there are sufficient grounds for permitting him to withdraw from the suit with liberty to bring a fresh suit for the same matter, it shall be competent to the Court to grant such permission on such terms as to costs or otherwise as it may deem proper. In any such fresh suit the plaintiff shall be bound by the rules for the limitation of actions in the same manner as if the first suit had not been brought. If the plaintiff withdraw from the suit without such permission, he shall be precluded from bringing a fresh suit for the same matter.

Court may allow plaintiff to withdraw from a suit, with liberty to bring a fresh suit.

98. If a suit shall be adjusted by mutual agreement or compromise, or if the defendant satisfy the plaintiff in respect to the matter of the suit, such agreement, compromise, or satisfaction shall be recorded, and the suit shall be disposed of in accordance therewith. On the application of the plaintiff reciting the substance of such agreement, compromise, or satisfaction, the Court, if satisfied that such agreement, compromise, or satisfaction has been actually entered into or made, shall grant a certificate to the plaintiff authorizing him to receive back from the Collector the full amount of stamp duty paid on the plaint if the application shall have been presented before the settlement of issues, or half the amount if presented at any time after the settlement of issues and before any witness has been examined. Provided however that no such certificate

Adjustment or compromise.

Court may grant certificate for refund of stamp duty on plaint if suit be adjusted.

Proviso

shall be granted if the adjustment between the parties be such as to require a decree to pass on which process of execution can be taken out.

Of the Death, Marriage, and Bankruptcy or Insolvency of Parties.

Suit not to abate by death in certain cases.

99. The death of a plaintiff or defendant shall not cause the suit to abate if the cause of action survive.

Proceeding in case of death of one of several plaintiffs or defendants, if the cause of action survives.

100. If there be two or more plaintiffs or defendants and one of them die, and if the cause of action survive to the surviving plaintiff or plaintiffs alone, or against the surviving defendant or defendants alone, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs, and against the surviving defendant or defendants.

Proceeding in case of death of one of several plaintiffs, where the cause of action accrues to the survivor and the representative of the deceased.

101. If there be two or more plaintiffs, and one of them die and if the cause of action shall not survive to the surviving plaintiff or plaintiffs alone but shall survive to them and the legal representative of the deceased plaintiff jointly, the Court may, on the application of the legal representative of the deceased plaintiff, enter the name of such representative in the Register of the suit in the place of such deceased plaintiff, and the suit shall proceed at the instance of the surviving plaintiff or plaintiffs and such legal representative of the deceased plaintiff. If no application shall be made to the Court by any person claiming to be the legal representative of the deceased plaintiff, the suit shall proceed at the instance of the surviving plaintiff or plaintiffs; and the legal representative of the deceased plaintiff shall be interested in and shall be bound by the judgment given in the suit in the same manner as if the suit had proceeded at his instance conjointly with the surviving plaintiff or plaintiffs.

Proceeding in case of death of sole or sole surviving plaintiff.

102. In case of the death of a sole plaintiff or sole surviving plaintiff, the Court may, on the application of the representative of such plaintiff, enter the legal name of such representative in the place of such plaintiff in the Register of the suit, and the suit shall

thereupon proceed; if no such application shall be made to the Court within what it may consider a reasonable time by any person claiming to be the legal representative of the deceased sole plaintiff or sole surviving plaintiff, it shall be competent to the Court to pass an order that the suit shall abate, and to award to the defendant the reasonable cost which he may have incurred in defending the suit, to be recovered from the estate of the deceased sole plaintiff or surviving plaintiff; or the Court may, if it think proper, on the application of the defendant, and upon such terms as to costs as may seem fit, pass such other order for bringing in the legal representative of the deceased sole plaintiff or surviving plaintiff, and for proceeding with the suit in order to a final determination of the matters in dispute, as may appear just and proper in the circumstances of the case.

Proceeding in case of dispute as to who is the legal representative of a deceased plaintiff.

103. If any dispute arise as to who is the legal representative of a deceased plaintiff, it shall be competent to the Court either to stay the suit until the fact has been duly determined in another suit, or to decide at or before the hearing of the suit who shall be admitted to be such legal representative for the purpose of prosecuting the suit.

Proceeding in case of death of one of several defendants or of a sole or sole surviving defendant.

104. If there be two or more defendants, and one of them die, and the cause of action shall not survive against the surviving defendant or defendants alone, and also in case of the death of a sole defendant or sole surviving defendant, where the action survives, the plaintiff may make an application to the Court specifying the name, description, and place of abode of any person whom the plaintiff alleges to be the legal representative of such defendant, and whom he desires to be made the defendant in his stead; and the Court shall thereupon enter the name of such representative in the Register of the suit in the place of such defendant, and shall issue a summons to him to appear on a day to be therein mentioned to defend the suit; and the case shall thereupon proceed in the same manner as if such representative had originally been made a defendant and had been a party to the former proceedings in the suit.

105. The marriage of a woman, plaintiff or defendant, shall

Marriages of a Female plaintiff or defendant not to abate the suit.

not cause the suit to abate, but the suit may notwithstanding be proceeded with to judgment, and the decree thereupon may be executed upon the wife alone; and if the case is one in which the husband is by law liable for the debts of his wife, the decree may, with the permission of the Court, be executed against the husband also; and in case of judgment for the wife, execution of the decree may, with the permission of the Court, be issued upon the application of the husband, where the husband is by law entitled to the money or thing which may be the subject of the decree.

Bankruptcy or insolvency when not to abate the suit.

106. The bankruptcy or insolvency of the plaintiff in any suit which the Assignee might maintain for the benefit of the creditors shall not be a valid objection to the continuance of such suit, unless the Assignee shall decline to continue the suit and to give security for the costs thereof within such reasonable time as the Court may order; if the Assignee neglect or refuse to continue the suit and to give such security within the time limited by the order, the defendant may, within eight days after such neglect or refusal, plead the bankruptcy or insolvency of the plaintiff as a reason for abating the suit.

OF NOTICES TO PRODUCE, AND HOW THEY ARE TO BE SERVED.

Two notices in writing to be delivered to the proper Officer of the Court.

107. Whenever any of the parties to a suit is desirous that any document, writing, or other thing, which he believes to be in the possession or power of another of the parties thereto, should be produced at any hearing of the suit, and the production of such document, writing, or other thing has not previously been required, under the provisions of Sections 40 and 43, he shall at the earliest opportunity deliver to the Court two notices in writing to the party in whose possession or power he believes the document, writing, or other thing to be, calling upon him to produce the same; and one of such notices shall be filed in Court, and the other shall be delivered by the Court to the Nazir or other proper Officer, to be served upon such party.

108. In all cases in which a party to a suit has not appointed

Service of notices and other judicial process how to be made on a party who has not appointed a pleader to act for him.

a pleader to act for him, all notices and other judicial processes shall be served upon such party in the manner hereinbefore provided for the service of a summons upon a defendant to appear and answer.

OF THE APPEARANCE OF THE PARTIES, AND CONSEQUENCES OF NON-APPEARANCE.

Parties must appear in person or by pleader.

109. On the day fixed in the summons for the defendant to appear and answer, the parties shall be in attendance at the Court-house in person or by a pleader, and the suit shall then be heard unless the hearing be adjourned to a future day which shall be fixed by the Court.

If neither party appear, suit to be dismissed with liberty to the plaintiff to bring a fresh suit.

110. If, on the day fixed for the defendant to appear and answer, or any other day subsequent thereto to which the hearing of the suit may be adjourned, neither party shall appear either in person or by a pleader when duly called upon by the Court, the suit shall be dismissed. Whenever a suit is dismissed under the provisions of this Section, the plaintiff shall be at liberty to bring a fresh suit unless precluded by the rules for the limitation of actions; or if he shall within the period of thirty days satisfy the Court that there was a sufficient excuse for his non-appearance, the Court may issue a fresh summons upon the plaint already filed.

Or if sufficient excuse for non-appearance, a fresh summons may be issued.

If plaintiff only appear, Court may proceed *ex parte* if due service of summons be proved.

111. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was duly served, the Court shall proceed to hear the suit *ex parte*. If the defendant appear on any subsequent day to which the hearing of the suit is adjourned, and shall assign good and sufficient cause for his previous non-appearance, he may, upon such terms as the Court may direct as to payment of costs or otherwise, be heard in answer to the suit in like manner as if he had appeared on the day fixed for his appearance.

If defendant appear on day of adjourned hearing, and assign good cause for his previous non-appearance, he may be heard.

112. If the plaintiff shall appear in person or by a pleader and the defendant shall not appear in person or by a pleader, and it shall not be proved to the satisfaction of the Court that the summons was duly served in any of the modes of service hereinbefore provided, the Court may direct a second summons to the defendant to be issued in any of the said modes.

If plaintiff only appear and due service of summons be not proved, Court may order issue of second summons.

113. If the plaintiff shall appear in person or by a pleader, and the defendant shall not appear in person or by a pleader, and it shall be proved to the satisfaction of the Court that the summons was served on the defendant but not in sufficient time to enable the defendant to appear and answer on the day fixed in the summons, the Court shall postpone the hearing of the suit to a future day to be fixed by the Court and may direct notice of such day to be given to the defendant.

If plaintiff only appear, and service of summons be proved, but the service was not in due time, Court may adjourn hearing and direct notice to be given to defendant.

114. If the defendant shall appear in person or by a pleader, and the plaintiff shall not appear in person or by a pleader, the Court shall pass judgment against the plaintiff by default, unless the defendant admit the claim, in which case the Court shall pass judgment against the defendant upon such admission. When judgment is passed against a plaintiff by default, he shall be precluded from bringing a fresh suit in respect of the same cause of action.

If defendant only appear, Court to pass judgment by default against plaintiff, unless defendant admit the claim.

No fresh suit after such judgment.

115. When there are two or more plaintiffs, any one or more of them may be authorized to appear, plead, and act for the other or others of them; and in like manner, when there are two or more defendants, any one or more of them may be authorized to appear, plead, and act for the other or others of them; provided that the authority shall in all cases be in writing, and shall be filed in the Court; when so filed, it shall be as effectual to all intents and purposes as if the person so authorized to appear, plead, and act, were a pleader of the Court.

When there are several plaintiffs or defendants, each may authorize the other to appear for him.

116. If there are two or more plaintiffs, and one or more of

Consequence of non-appearance of one or more of several plaintiffs.

them shall appear in person or by a pleader or by a co-plaintiff duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-plaintiff duly authorized, it shall be competent to the Court to proceed with the suit at the instance of the plaintiff or plaintiffs who shall have appeared, in the same way as if all the plaintiffs had appeared, and to pass such order as may be just and proper in the circumstances of the case; and if there are two or more defendants, and one or more of them shall appear in person or by a pleader or by a co-defendant duly authorized, and the other or others of them shall not appear in person or by a pleader or by a co-defendant duly authorized, the Court shall proceed with the suit to judgment, and shall at the time of passing judgment give such order with respect to the defendant or defendants who shall not have appeared as shall be just and proper in the circumstances of the case.

Consequence of non-appearance of one or more of several defendants.

117. If any plaintiff or defendant who shall have been ordered or summoned to appear personally under the provisions of Section 42, shall not appear in person, or show sufficient cause to the satisfaction of the Court for failing so to appear, such plaintiff or defendant shall be subject to all the provisions of the foregoing Sections applicable to plaintiffs and defendants respectively, who do not appear either in person or by pleader.

Consequence of non-appearance, without sufficient cause shown of any party to suit summoned or ordered to appear in person.

118. In support of the cause shown by a plaintiff or defendant for failure to appear in person, the Court shall receive any declaration in writing on unstamped paper, if signed by such Plaintiff or defendant and verified in the manner hereinbefore provided for the verification of plaints.

Court to receive declaration in support of cause shown.

119. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all cases, in which judgment may be passed *ex parte* against a defendant, he may apply within a reasonable time, not exceeding thirty days after any process for enforcing the judgment has been executed, to

No appeal from judgments passed *ex parte* or by default.

When and how judgment *ex parte* against a defendant may be set aside.

the Court by which the judgment was passed, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the summons was not duly served, or that the defendant was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment, and shall appoint a day for proceeding with the suit. In all cases of judgment against a plaintiff by default, he may apply, within thirty days from the date of the judgment, for an order to set it aside; and if it shall be proved to the satisfaction of the Court that the plaintiff was prevented by any sufficient cause from appearing when the suit was called on for hearing, the Court shall pass an order to set aside the judgment by default, and shall appoint a day for proceeding with the suit.

When and how judgment by default against a plaintiff may be set aside.

But no judgment shall be set aside on any such application as aforesaid, unless notice thereof have been served on the opposite party. In all cases in which the Court shall pass an order under this Section for setting aside a judgment, the order shall be final; but in all appealable cases in which the Court shall reject the application, and appeal shall lie from the order or rejection to the tribunal to which the final decision in the suit would be appealable, provided that the appeal be preferred within the time allowed for an appeal from such final decision, and be written upon stamp paper of the value prescribed for petitions to the Court where a stamp is required for petitions.

No judgment to be set aside, without notice to oppsite party.

Order for setting aside judgment shall be final.

In appealable cases, an appeal from order of rejection.

Proviso.

Of Written Statements.

120. The parties or their pleaders may tender at the first hearing of the suit written statements of their respective cases, and the Court shall receive the same and put them on the record. Such statements shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required for petitions.

Written statements may be tendered by the parties at the first hearing of the suit.

Written statements to be on stamp paper.

121. If in a suit for debt the defendant desire to set-off

Particulars of set off to be given in a written statement.

against the claim of the plaintiff the amount of any debt due to him from the plaintiff, he shall tender a written statement containing the particulars of his demand, and the Court shall thereupon enquire into the same. Provided that, if the sum claimed by the defendant exceed the amount cognizable by the Court, the defendant shall not be allowed to set-off the same unless he abandon the excess.

Abandonment of excess of set-off over claim.

122. No written statement shall be received after the first hearing of the suit, unless called for by the Court. But it shall be competent to the Court, at any time before the final judgment, to call for a written statement, or an additional written statement from any of the parties. When such statements are called for by the Court, they shall be received on plain paper.

No written statement to be received after first hearing unless called for by the Court.

Court may at any time call for a written statement.

123. Written statements shall be as brief as the nature of the case will admit, and shall not be argumentative nor by way of answer one to the other; but each statement shall be confined, as much as possible, to a simple narrative of the facts which the party by whom or on whose behalf the written statement is made believes to be material to the case, and which he believes he will be able to prove if called upon by the Court. Written statements shall be subscribed and verified in the manner hereinbefore provided for subscribing and verifying plaints, and no written statement shall be received unless it be so subscribed and verified.

How written statements are to be framed.

Written statements to be subscribed and verified.

124. If it shall appear to the Court that any written statement presented by or on behalf of a party, whether the same have been spontaneously tendered or have been called for by the Court is argumentative or unnecessarily prolix, or that it contains matter irrelevant to the suit, the Court may reject the same, and return it to the party with the order of rejection endorsed thereon; and it shall not be competent to a party whose written statement has been rejected for any of

Court may reject a written statement which is argumentative, prolix, or irrelevant.

these causes to present another written statement, unless it shall be expressly called for or allowed by the Court.

Of the Examination of the Parties.

Oral examination of party &c.

125. At the first hearing of the suit, and if necessary at any subsequent hearing, any party who appears in person or is present in Court, or the pleader of any party who appears by a pleader, or if the pleader be accompanied by another person able to answer all material questions relating to the suit, then such other person, may be examined orally by the Court. Such examination shall (unless the pleader be the person examined) be upon oath or affirmation or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses. The substance of the examination shall be reduced to writing and form part of the record.

Oath.

Substance of the examination to be written.

Consequence of refusal of a party to answer.

126. If any party who appears in person or is present in Court shall without lawful excuse refuse to answer any material question relating to the suit which the Court may think proper to put to such party, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Consequence of refusal or inability of pleader to answer.

127. If the pleader of any party who shall appear by a pleader shall refuse or be unable to answer any material question relating to the suit which the Court is of opinion that the party whom he represents ought to answer, and is likely to be able to answer, if interrogated in person, the Court may postpone the hearing of the suit to a future day and direct that such party shall attend in person on such day; and if the party so directed to attend shall without lawful excuse fail to appear in person on the day to be so appointed, the Court may pass judgment against him, or make such other order in relation to the suit as it may deem proper in the circumstances of the case.

Of the Production of Documents.

128. The parties or their pleaders shall bring with them, and

Documentary evidence to be produced at first hearing.

have in readiness at the first hearing of the suit to be produced when called upon by the Court, all their documentary evidence of every description which may not already have been filed in Court, and all documents, writings, or other things which may have been specified in any notice which may have been served on them respectively within a reasonable time before the hearing of the suit; and no documentary evidence of any kind, which the parties or any of them may desire to produce, shall be received by the Court at any subsequent stage of the proceedings, unless good cause be shown to its satisfaction for the non-production thereof at the first hearing.

Exhibits to be received and inspected by the Court.

Rejection of exhibits.

129. All exhibits produced by the parties shall be received and inspected by the Court; but it shall be competent to the Court, after inspection, to reject any exhibit which it may consider irrelevant or otherwise inadmissible, recording the grounds of such rejection.

Documents insufficiently stamped may be received on payment of deficient duty and penalty.

130. If the exhibit be a deed, instrument, or writing, chargeable with stamp duty under any Regulation or Act for the time being in force, and it shall appear to the Court that the deed, instrument, or writing, although written on stamp paper, does not bear a sufficient stamp, the Court shall nevertheless receive the same in evidence, saving all just exceptions on other grounds, if the party producing it or requiring its production shall pay into Court the deficiency of the stamp duty and a penalty equal to ten times the amount of the deficiency. Provided that, if it shall appear to the Court that there are reasonable grounds for believing that the deed, instrument, or writing was not properly stamped with the intention of evading the stamp laws, the Court may reject the same.

Proviso.

Account of monies so received to be kept.

131. An entry of the fact of such payment and of the amount thereof shall be made in a book to be kept in the Court, and shall also be endorsed on the back of such deed, instrument, or writing under the signature of the Judge of the Court. The Court shall at the end of every month make a return to the Collector of Revenue of the District of the monies (if any)

Monthly return to be made to Collector.

which it has so received by way of duty or penalty, distinguishing between such monies, and stating the number and title of the suit, and the name of the party from whom such monies were received, and the date (if any) and description of the document, for the purpose of identifying the same; and the Court shall pay over the said monies to the Collector of Revenue, or to such person as he may appoint to receive the same; and the Collector of Revenue or other proper authority shall, upon production of the deed, instrument, or writing, with the endorsement hereinbefore mentioned, cause such additional stamp as may be necessary to be affixed to such deed, instrument, or writing in respect of the sums so paid as aforesaid

Admitted exhibits to be marked and filed.

132. When an exhibit is received by the Court and admitted in evidence, it shall be endorsed with the number and title of the suit, the name of the party producing it, and the date on which it was produced, and shall be filed as part of the record. Provided that, if the exhibit be an entry in any shop book or other book, the party on whose behalf such book is produced shall furnish a copy of the entry, which copy shall be endorsed as aforesaid, and shall be filed as part of the record, and the book shall be returned to the party producing it.

Proviso.

No stamp duty in respect of the production or filing of exhibits.

133. No stamp duty shall be leviable in respect of the production or filing of any exhibit, anything contained in any Regulation or Act notwithstanding.

Rejected exhibits to be marked and returned.

134. When an exhibit is rejected by the Court, it shall be endorsed in the manner specified in Section 132 with the addition of the word "rejected," and the endorsement shall be subscribed by the Judge. The exhibit shall then be returned to the party who produced it, unless the Court shall think proper, for special reasons (as on suspicion of forgery), to detain it.

Unless detained by the Court.

After the time for appeal has elapsed, exhibit admitted in evidence may be returned.

135. When the time for preferring an appeal from the decision passed in the suit has elapsed, or if an appeal has been preferred from such decision, then after the appeal has been finally disposed of, any person, whether a party to the suit or not, who may be desirous of receiving back any exhibit produced by him in the

suit, shall be entitled, on application to the Court in which such exhibit may be, to receive back the same unless the further use of such exhibit has been superseded by the terms of the decree, or the Court has directed it to be detained for purposes of public justice.

Exhibit may be returned before the time limited for special reasons.

136. Any exhibit may be returned before the time mentioned in the last preceding Section, if the Court in which the document may be shall think proper, for special reasons, to order its return. But in every case a copy, properly certified, and made at the expense of the applicant, shall be substituted for the original in the record of the suit.

Certified copy to be kept.

Receipt to be given for returned exhibit.

137. Whenever an exhibit once received by a Court of Justice and admitted in evidence is returned, a receipt shall be given by the party receiving it in a receipt-book kept for the purpose.

Court may send for papers from its own records or from other public Offices or Courts.

Except State papers.

138. Any Civil Court may of its own accord, or upon the application of any of the parties to a suit, send for, either from its own record or from any other public Office or Court, the record of any other suit or case, or any other official papers (not being documents relating to affairs of State the production of which would be contrary to good policy) and inspect the same, when the inspection of such record or papers shall appear likely to elucidate the facts of the suit before the Court, and to promote the ends of justice.

Of the Settlement of Issues.

Framing of issues.

139. At the first hearing of the suit the Court shall enquire and ascertain upon what questions of law or fact the parties are at issue, and shall thereupon proceed to frame and record the issues of law and fact on which the right decision of the case may depend. The Court may frame the issues from the allegations of fact which it collects from the oral examination of the parties or their pleaders, notwithstanding any difference between such allegations of fact and the allegations of fact contained in the written statements, if any, tendered by the parties or their pleaders.

140. If the Court shall be of opinion that the issues cannot

Court may examine witnesses or documents before framing the issues.

be correctly framed without the examination of some person other than the persons already before the Court or without the reading of some document not produced by any of such persons, it may adjourn the framing of the issues to a future day, to be fixed by the Court, and may compel the attendance of such person, or the production of the document by the person in whose hands it may be, by summons or other suitable process.

Amendment of issues. Additional issues.

141. At any time before the decision of the case, the Court may amend the issues or frame additional issues on such terms as to it shall seem fit, and all such amendments as may be necessary for the purpose of determining the real question or controversy between the parties shall be so made.

Of Issues by Agreement of Parties.

Questions of fact or law may by agreement be stated by the parties in the form of an issue.

142. When the parties to a suit are agreed as to the question or questions of fact or of law to be decided between them, they may state the same in the form of an issue, and enter into an agreement in writing, which shall not be subject to any stamp duty, that upon the finding of the Court in the affirmative or the negative of such issue, a sum of money specified in the agreement, or to be ascertained by the Court upon a question inserted in the issue for that purpose, shall be paid by one of the parties to the other of them, or that upon such finding some property specified in the agreement, and in dispute in the suit, shall be delivered by one of the parties to the other of them, or that upon such finding one or more of the parties shall do or perform some particular legal act, or shall refrain from doing or performing some particular act, specified in the agreement, and having reference to the matter in dispute.

Court, if satisfied that the agreement was executed *bona fide* may decree accordingly.

143. If the Court shall be satisfied, after an examination of the parties or their pleaders, and taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that the parties have a *bona fide* interest in the decision of such question, and that the same is fit to be tried and decided, it may

proceed to record and try the same, and deliver its finding or opinion thereon in the same manner as if the issue had been framed by the Court, and may, upon the finding or decision on such issue, give judgment for the sum so agreed on or so ascertained as aforesaid, or otherwise according to the terms of the agreement; and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

WHEN THE SUIT MAY BE DISPOSED OF AT THE FIRST HEARING.

If the parties are not at issue on any question of law or fact.

144. If at the first hearing of a suit it shall appear that the parties are not at issue on any question of law or fact, the Court may at once give judgment.

If the parties are at issue on questions of law or fact.

145. When the parties are at issue on some question of law or fact, and issues have been framed by the Court as hereinbefore provided, if the Court shall be satisfied that no further argumnet or evidence than such as the parties or their pleaders can at once supply is required upon any such of the issues of law or fact as may be sufficient for the decision of the suit, the Court, after hearing such argument and evidence, may proceed to determine such issue or issues, and if the finding thereon is sufficient for the decision, may pronounce judgment accordingly, whether the summons shall have been issued for the settlement of issues only or for the final disposal of the suit; otherwise the Court shall postpone the further hearing of the suit, and shall fix a day for the production of such further evidence or for such further argument as the case may require. Provided that if the summons shall have been issued for the final disposal of the suit and either party shall fail without sufficient cause to produce the evidence on which he reues, the Court may at once give judgment.

Court if satisfied may determine the issues and give judgment.

Proviso where summons is for final disposal.

OF ADJOURNMENTS.

Court may grant time, or adjourn to a future day.

146. The Court may, if sufficient cause be shown, at any stage of the suit, grant time to the parties, or to either of them, and may from time to time adjourn the hearing of the suit; and in all such

cases the Court shall fix a day for the further hearing of the suit. Provided that in all such cases the party applying for time shall pay the costs occasioned by such adjournment, unless the Court shall otherwise direct.

Proviso.

147. If, on any day to which the hearing of the suit may be adjourned, the parties or either of them shall not appear in person or by pleader, the Court may proceed to dispose of the suit in the manner specified in Section 110, Section 111, or Section 114 as the case may be, or may make such other order as may appear to be just and proper in the circumstances of the case.

How Court is to proceed if the parties fail to appear on the day fixed.

148. If either party to a suit to whom time may have been granted shall fail to produce his proofs, or to cause the attendance of his witnesses, or to perform any other act for which time may have been allowed, the Court shall proceed to a decision of the suit on the record, notwithstanding such default.

Court to proceed if either party fail to produce proofs or witnesses.

Of Summoning Witnesses.

149. The parties or their pleaders may, at any time after the issue of the summons to the defendant, if the summons be for the final disposal of the suit, or after the issues have been recorded if the summons to the defendant be for the settlement of issues only, obtain, on application to the Court, summonses to witnesses or other persons to attend either to give evidence or to produce documents, and in any such summons the names of any number of persons may be inserted.

Application for summons.

150. No stamp duty shall be leviable in respect of any application for the summons of a witness or other person to attend either to give evidence or to produce a document, anything contained in any Regulation or Act notwithstanding.

No stamp duty on application for summons.

151. The person applying for a summons shall pay into Court such a sum of money as shall appear to the Court to be reasonable, to defray the travelling and other expenses of each witness, or other person mentioned in the summons, in passing to and from the Court in which he may be required to attend, and for one day's attendance. If the Court be a subordi-

Expenses of witnesses to be paid before issue of summons.

Scale of expenses.

nate Court, regard shall be had, in fixing the scale of such expenses, to the rules (if any) established by the Court to which such Court shall be immediately subordinate. The sum so paid into Court shall be tendered to the witness or other person at the time of serving the summons, if it can be served personally. If it shall appear to the Court that the sum paid into Court on account of the travelling and other expenses of the witness or other person in passing to and from the Court is not sufficient to cover such expenses, the Court may direct such further sum to be paid to the witness or other person as may appear to be necessary on that account, and, in case of default in payment, may order such sum to be levied by attachment and sale of the goods of the person ordered to pay the same, or may discharge the witness without requiring him to give evidence. If it shall be necessary to detain the witness or other person summoned for a longer period than one day, the Court may from time to time order the party at whose instance he was summoned to pay into Court such sum as may be sufficient to defray the expenses of his detention for such further period, and, in default of such deposit being made, may order the witness to be discharged without requiring him to give evidence.

Tender of expenses to witness.

If sum be not sufficient.

Expenses if witness is detained.

152. Every summons for the attendance of a witness or other person shall specify the time and place at which he is required to attend, and also whether his attendance is required for the purpose of giving evidence or to produce a document, or for both purposes; and any particular document, which the witness or other person may be called on to produce shall be described in the summons with convenient certainty.

Time, place, and purpose of attendance to be specified in summons.

153. Any person whether a party to a suit or not may be summoned to produce a document, without being summoned to give evidence; and any person, summoned merely to produce a document, shall be deemed to have complied with the summons, if he cause such document to be produced instead of attending personally to produce the same.

Summons to produce a document.

SERVICE OF SUMMONS ON A WITNESS.

How and when the summons shall be served.

154. Every summons to a witness or other person shall be served by exhibiting the original, and delivering or tendering a copy; and the service shall in all cases be made a sufficient time before the time specified in the summons for the attendance of the witness or other person, to allow him a reasonable time for preparation, and for travelling to the place at which his attendance is required.

Service to be on the witness, or a male member of his family.

155. Whenever it may be practicable, the service of the summons shall be upon the person thereby required to attend; but when he cannot be found, the service may be made on any adult male member of his family residing with him.

When the summons cannot be served, it is to be returned to the Court.

156. When the person required to attend cannot be found, and there is no adult male member of his family on whom the summons can be served, the serving Officer shall return the summons to the Court from whence it issued, with an endorsement thereon that he has been unable to serve it.

Time and manner of service to be endorsed on the summons.

157. The serving Officer shall, in all cases in which the summons has been served, endorse on the original summons the time when, and the manner in which it was served.

How a summons on a witness who resides in another jurisdiction is to be served.

158. If the person required to attend be resident within the jurisdiction of any other Court than that in which the suit is pending, the summons shall be transmitted by the Court in which the suit is pending, to any Court having jurisdiction at the place where the witness resides by which it can be most conveniently served; and the Court to which the summons is sent shall, upon receipt thereof, deliver the same to the Nazir or other proper Officer of such Court, to be served in the manner above directed; and upon the return of the summons by the serving Officer, it shall be transmitted to the Court from whence it originally issued.

When a witness absconds, his property may be attached.

159. If the summons for the attendance of any person either to give evidence or to produce a document, cannot be served in either of the ways hereinbefore specified, the Court, on being certified

thereof by the return of the serving Officer, and upon proof that the evidence of such witness or the production of the document is material, and that the witness or other person absconds or keeps out of the way for the purpose of avoiding the service of the summons, may cause a proclamation requiring the attendance of such person to give evidence, or produce the document, at a time and place to be named therein, to be affixed in some conspicuous place upon his house or place of abode; and if such person shall not attend at the time and place named in such proclamation, the Court may, at the instance of the party on whose application the summons was issued, make an order for the attachment of the movable and immovable property of such person, to such amount as the Court shall deem reasonable, not being in excess of the amount of the costs of attachment and of any fine to which the person may be liable under the provisions of the following Section.

How the Court is to proceed with the witness on his appearance.

160. If, on the attachment of the property, such witness or other person shall appear and satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not notice of the proclamation in time to attend at the time and place named therein, the Court shall direct that the property be released from attachment, and shall make such order in regard to the costs of the attachment as it shall deem fit. If such witness or other person shall not appear, or appearing shall fail to satisfy the Court that he did not abscond or keep out of the way to avoid service of the summons, and that he had not such a notice of the proclamation as aforesaid, it shall be lawful for the Court to order the property attached, or any part thereof, to be sold for the purpose of satisfying all costs incurred in consequence of such attachment, together with the amount of any fine which the Court may impose upon such witness or other person under the provisions of any law for the time being in force for the punishment of a witness who may abscond or keep out of the way in order to avoid the service of a summons. If the witness or other person shall pay into Court the costs and fine as aforesaid, the Court shall order the property to be released from attachment.

Of the Examination of Parties as Witnesses.

161. When a party to a suit appears in person at any hearing of the suit, he may be examined as a witness, either in his own behalf or on behalf of any other party to the suit, in the same way as if he were not a party thereto.

A party to a suit appearing in person may be examined either in his own behalf or on behalf of any other party.

162. If any party to a suit shall require to enforce the attendance of any other party thereto as a witness, he shall, by himself or his pleader, make a special application to the Court for an order requiring the attendance of the party, and shall show to the satisfaction of the Court sufficient grounds in support of such application, otherwise a summons shall not be issued.

Special application to be made for the examination of a party as a witness.

163. The Court, if it think fit, may, before making such order, cause notice to be given to the party or his pleader, fixing a day for such party to show cause why he should not attend and give evidence; and may also, from time to time, if necessary, for good and sufficient reason, enlarge the time for such purpose.

The Court may first issue a notice to show cause.

164. In support of the cause shown, the Court shall receive any declaration in writing of the party, on unstamped paper, if signed by him and verified in the manner hereinbefore provided for the verification of plaints, and delivered into the Court by himself or his pleader.

Court shall receive a written declaration in support of the cause shown.

165. If no sufficient cause be shown on the day fixed, or upon any subsequent day to which the Court shall enlarge the time for that purpose, the Court shall issue its order requiring the party to attend and give evidence.

If no sufficient cause be shown, summons to issue.

166. If the Court shall think it necessary for the ends of justice to examine any party to the suit or to inspect any document in his possession or power, the Court may of its own accord in any stage of the suit cause such party to be summoned to attend as a witness to give evidence or to produce such document if in his possession or power on a day to be appointed in the summons, and may examine such party as a witness in open Court, or

Court may of its own accord at any time summon a witness.

may cause such party to be examined in such other manner as the Court may direct.

ATTENDACE OF WITNESSES, AND CONSEQUENCE OF NON-ATTENDANCE.

Persons summoned to give evidence must attend.

167 Any person who shall be summoned to appear and give evidence in a suit shall be bound to attend at the time and place named in the summons for that purpose.

Consequences of non-attendance by a witness.

168. If any person, on whom any summons to give evidence or produce a document shall have been served in either of the ways specified in Section 155, shall, without lawful excuse, fail to comply with the summons, the Court may order such person to be apprehended and brought before the Court. If such person abscond or keep out of the way, so that he cannot be apprehended or brought before the Court, his property shall be liable to attachment and sale in the manner and subject to the rules provided in Sections 159 and 160 with respect to a witness or other person on whom the service of a summons cannot be effected.

Consequences of refusal to give evidence.

169. If any witness, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may commit such witness to close custody for such reasonable time as it may deem proper, unless he shall, in the meantime, consent to give his evidence, or to produce the document. If after the expiration of such time the witness shall persist in his refusal, the Court may proceed to deal with him according to the provisions of any law for the time being in force for punishment of persons refusing to give evidence.

Consequence of non-attendance or refusal of a party to give evidence.

170. If any person, being a party to the suit, who shall be ordered to attend to give evidence or produce a document, shall, without lawful excuse, fail to comply with such order, or, attending or being present in Court, shall, without lawful excuse, refuse to give evidence, or to produce any document in his custody or

possession named in such summons as aforesaid, upon being required by the Court so to do, the Court may either pass judgment against the party so failing or refusing, or make such other order in relation to the suit as the Court may deem proper in the circumstances of the case.

Any person present in Court may be called upon to give evidence though not summoned.

171. Any person present in Court, whether a party to the suit or not, may be called upon by the Court to give evidence and to produce any document then and there in his actual possession or in his power, in the same manner and subject to the same rules as if he had been summoned to attend and give evidence or to produce such document, and shall be liable to be dealt with by the Court as a party or witness, as the case may be, would, under any of the preceding provisions, be liable to be dealt with for any refusal to obey the order of the Court.

WHEN AND HOW WITNESSES ARE TO BE EXAMINED.

Witnesses to be examined at the hearing of the suit in open Court.

172. On the day appointed for the hearing of the suit or on some other day to which the hearing may be adjourned, the evidence of the witnesses in attendance shall be taken orally in open Court, in the presence and hearing, and under the personal direction and superintendence of the Judge. In cases in which an appeal lies to a higher tribunal, the evidence of each witness given upon such examination shall be taken down in writing, in the language in ordinary use in proceedings before the Court, by, or in the presence and under the personal direction and superintendence of the Judge, not ordinarily in the form of question and answer but in that of a narrative, and, when completed, shall be read over in the presence of the Judge and of the witness, and also in the presence of the parties to the suit or their pleaders, or such of them as are in attendance, and shall, if necessary, be corrected, and shall be signed by the Judge. If the evidence be taken down in a different language from that in which it has been given, and the witness does not understand the language in which it is taken down, the witness may require his deposition as taken down in writing to be interpreted to him in the language in

In what form evidence shall be taken in appealable cases.

In what case deposition to be interpreted.

When evidence may be taken in English.

which it was given. Where all the parties to the suit present, and the pleaders of such as are absent, consent to have such evidence as is given in English taken down in English, the Judge may so take it down in his own hand. It shall be in the discretion of the Court to take down, or cause to be taken down, any particular question and answer, if there shall appear any special reason for so doing, or any party or his pleader shall require it.

Objection made to questions.

If any question put to a witness be objected to by either of the parties or their pleaders, and the Court shall allow the same to be put, the question and answer will be taken down and the objection, and the name of the party making it, shall be noticed in taking down the depositions, together with the dicision of the Court upon the objection. The Court shall record such remarks as it may think material respecting the demeanor of the witness while under examination.

Memorandum of substance of the evidence to be made by Judge as each witness is examined.

In cases in which the evidence is not taken down in writing by the Judge himself, he shall be bound, as the examination of each witness proceeds, to make a memorandum of the substances of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall accompany the record.

In what form evidence shall be taken in cases not appealable.

In cases in which an appeal does not lie to a higher tribunal, it shall not be necessary to take down the depositions of the witnesses in writing at length; but the Judge, as the examination of each witness proceeds, shall make a memorandum of the substance of what such witness deposes, and such memorandum shall be written and signed by the Judge with his own hand, and shall form part of the record.

If Judge be unable to make a memorandum of the evidence, reason of inability to be recorded.

If the Judge shall be prevented from making a memorandum as above required, he shall record the reason of his inability to do so, and in cases not appealable shall cause such memorandum to be made in writing from his dictation in open Court and shall sign the same, and such memorandum shall form part of the record.

A witness for sufficient cause be examined immediately.

173. If a witness be about to leave the jurisdiction of the Court, or other good and sufficient cause can be shown to the satisfaction of the Court why his examination should be taken immediately,

it shall be competent to the Court, upon the application of either party or of the witness, at any time after the institution of the suit, to take the examination of such witness forthwith, or on any day that may be fixed for that purpose, of which due notice shall be given to the parties if the day be fixed in their absence. The witness shall be examined, and his deposition shall be taken down in writing, in the manner hereinbefore prescribed; and the deposition so taken down may be read in evidence at any hearing of the suit.

Witness to be examined upon oath or affirmation, or according to the law for the time being in force.

174. All witnesses shall be examined upon oath or affirmation or otherwise according to the provisions of the law for the time being in force in relation to the examination of witnesses.

Of Commissions to Examine absent Witnessess and make Local Enquiries.

Cases in which Court may issue a Commission to examine witnesses.

175. When the evidence of a witness is required who is resident at some place distant more than a hundred miles from the place where the Court is held, or who is unable from sickness or infirmity to attend before the Court to be personally examined, or is a person exempted by reason of rank or sex from personal appearance in Court; the Court may, of its own motion, or on the application of any of the parties to the suit, or on the representation of the witness, order a Commission to issue for the examination of such witness on interrogatories or otherwise; and may, by the same or any subsequent order, give all such directions for taking such examinations as may appear reasonable and just. If the witness be resident within the jurisdiction of the Court issuing the Commission, the Commission may be issued to any Officer of the Court, or to any subordidate Court, or to any other person or persons whom the Court issuing the Commission may think proper to appoint. If the witness be resident at some place which is beyond the jurisdiction of the Court issuing the Commission, and not within the local jurisdiction of Her Majesty's Supreme Court, but within the jurisdiction of the Sudder Court, the Commission shall ordinarily be issued to the Court within whose jurisdiction the witness may reside, and

When the witness resides within the Court's jurisdiction.

When the witness resides beyond the Court's jurisdiction, and not within the Supreme Court's jurisdiction, but within the jurisdiction of the Sudder Court.

which can most conveniently execute the same; but, under special circumstances, the Commission may be issued to any other person or persons whom the Court issuing the Commission may think proper to appoint.

When the witness is within the local jurisdiction of the Supreme Court.

176. If the witness be resident within the local jurisdiction of Her Majesty's Supreme Court the Commission shall ordinarily be issued to the Court of Small Causes held under Act IX. of 1850 *(for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay)*, but may, under special circumstances, be directed to any person or persons whom the Court issuing the Commission may think proper to appoint.

When the witness is not within the jurisdiction of the Sudder Court or the Supreme Court, but within the British territories or the territories of any Native Prince or State in alliance with the British Government.

177. When the evidence of a witness is required, who is resident at some place not within the jurisdiction of the Sudder Court or of Her Majesty's Supreme Court, but within the British territories in India or within the territories of a Native Prince or State in alliance with the British Government, the Court, if it be satisfied that the evidence of such witness is necessary, may, of its own motion or on the representation of any of the parties to the suit, issue a Commission for the examination of the witness; provided that, if the suit be pending in any Court subordinate to the principal Civil Court of a district, such subordinate Court shall not issue the Commission, but the principal Civil Court of the District may issue the Commission on the application of the subordinate Court.

When the witness is beyond the said territories and not within the territories of any Native Prince or State in alliance with the British Government.

178. When the evidence of a witness is required, who is resident at some place beyond the said territories and not within the territories of a Native Prince or State in alliance with the British Government, the Sudder Court, if the suit in which the evidence of the witness is required be pending in that Court and the Court be satisfied that such evidence is necessary, may, of its own motion or on the application of any of the parties to the suit, issue a Commission to examine the witness; if the suit be not pending in the Sudder Court, that Court may issue the Commission on the application of the Court in which the suit is pending. In all such cases, the Com-

mission may be issued to any person or persons whom the Sudder Court may think proper to appoint.

Commission to be returned with the depositions of the witnesses.

179. After the Commission has been duly executed, it shall be returned, together with the deposition of the witness who may have been examined thereunder, to the Court out of which the Commission issued, unless otherwise directed by the order for issuing the Commission, in which case it shall be returned in terms of such order, and the Commission and the return thereto and the deposition of the witness who may have been examined under such Commission shall in all cases form part of the record of the suit. But no deposition taken under a Commission shall be read in evidence without the consent of the party against whom the same may be offered, unless it be proved that the deponent is beyond the jurisdiction of the Court, or dead, or unable from sickness or infirmity to attend to be personally examined, or distant, without collusion, more than a hundred miles from the place where the Court is held, or exempted by reason of rank or sex from personal appearance in Court, or unless the Court shall, at its discretion, dispense with the proof of any of the above circumstances, or shall authorize the deposition of any witness being read in evidence, notwithstanding proof that the causes for taking such deposition have ceased at the time of reading the same.

When depositions may be read in evidence.

Commission for local investigation.

180. In any suit or other judicial proceeding in which the Court may deem a local investigation to be requisite or proper for the purpose of elucidating the matters in dispute, or of ascertaining the amount of any mesne profits or damages, the Court may issue a Commission to an Officer of the Court appointed to execute such Commissions, or, if there be no such Officer, to any suitable person, directing him to make such investigation and to report thereon to the Court. In all such cases, unless otherwise directed by the order of appointment, the Commissioner shall have power to examine any witnesses who may be produced to him by the parties or any of them, the parties themselves, and any other persons whom he may think proper to call upon to give evidence in the matters referred to him; and also to call for and examine documents and other papers relevant to the subject of enquiry; and persons

not attending on the requisition of the Commissioner, or refusing to give their testimony or to produce any documents or other papers, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the report of the Commissioner, as they would incur for the same offences in suits tried before the Court. The Commissioner, after such local inspection as he may deem necessary, and after reducing to writing, in the manner hereinbefore prescribed for taking the depositions of witnesses in the presence of the judge, the depositions taken by him, shall return the depositions, together with his report in writing, subscribed with his name, to the Court. The report and depositions shall be taken as evidence in the suit and shall form part of the record; but it shall be competent to the Court, or to the parties to the suit or any of them, with the permission of the Court, to examine the Commissioner personally in open Court, touching any of the matters referred to him or mentioned in his report, or the manner in which he may have conducted the investigation.

The report and depositions to be taken as evidence in the suit, but the Commissioner may be examined in person.

181. In any suit or other judicial proceeding in which an investigation or adjustment of accounts may be necessary, it shall be lawful for the Court to appoint such Officer or other person as beforesaid to be a Commissioner for the purpose of making such investigation or adjustment, and to direct that the parties or their attorneys or pleaders shall attend upon the Commissioner during such investigation or adjustment. In all such cases, the Court shall furnish the Commissioner with such part of the proceedings and such detailed instructions as may appear necessary for his information and guidance; and the instructions shall distinctly specify whether the Commissioner is merely to transmit the proceedings which he may hold on the enquiry or also to report his own opinion on the point referred for his investigation. The proceedings of the Commissioner shall be received in evidence in the case, unless the Court may have reason to be dissatisfied with them; in which case the Court shall make such further enquiry as may be requisite, and shall pass such ultimate judgment or order as may appear to it to be right and proper in the circumstances of the case.

A Commissioner may be appointed to investigate and adjust accounts.

182. Whenever a Commission is issued either for taking evidence or for a local investigation or an investigation into accounts, the Court, before issuing the Commission, may order such sum as may be thought reasonable for the expenses of the Commission to be paid into Court by the party, at whose instance or for whose benefit the Commission is issued.

In cases of local investigation or investigation into accounts, expenses of Commission to be paid into Court, before issue thereof.

Of Judgment and Decree.

183. When the exhibits have been perused, the witnesses examined, and the parties heard in person or by their respective pleaders, the Court shall pronounce its judgment. The judgment shall be pronounced in open Court either immediately or on some future day, of which due notice shall be given to the parties or their pleaders.

When judgment is to be pronounced.

184. The judgment shall be written in the vernacular language of the Judge. Provided that if the vernacular language of the Judge be not English and the Judge be sufficiently conversant with the English language to be able to write a clear and intelligible decision in that language and prefer to write his judgment in it, the judgment may be written in English.

Judgment to be written in the vernacular language of the Judge.

Proviso.

185. The judgment shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge in open Court at the time of pronouncing it. Whenever the judgment is written in any other language than that which is in ordinary use in the Court, the judgment shall be translated into the language in ordinary use in the Court, and the translation shall also be signed by the Judge.

Judgment what to contain.

Judgment to be translated.

186. In all suits in which issues have been framed, the Court shall state its finding or decision on each separate issue, unless the finding upon any one or more of the issues be sufficient for the decision of the suit.

Court to state its decision on each issue.

Proviso.

187. The judgment shall in all cases direct by whom the costs of each party are to be paid, whether by

Judgment to direct

by whom costs are to be paid.

himself or by another party, and whether in whole or in what part or proportion; and the Court shall have full power to award and apportion costs in any manner it may deem proper.

188. Under the denomination of costs are included the whole of the expenses necessarily incurred by either party on account of the suit, and in enforcing the decree passed therein, such as the expense of stamps, of summoning the defendants and witnesses, and of other processes, or of procuring copies of documents, fees of pleaders, charges of witnesses, and expenses of Commissioners either in taking evidence or in local investigations or in investigations into accounts.

What is included under the denomination of costs.

189. The decree shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and descriptions of the parties, and particulars of the claim, as stated in the Register of the suit, and shall specify clearly the relief granted or other determination of the suit. It shall also state the amount of costs incurred in the suit and by what parties and in what proportions they are to be paid, and shall be signed by the Judge and sealed with the seal of the Court.

Decree.

190. When the suit is for land or other immovable property with specified boundaries, if the decree be for the recovery of a portion only of such property, it shall specify the boundaries of the land or property adjudged.

Decree for the recovery of a portion of immovable property.

191. When the suit is for movable property, if the decree be for the delivery of such property, it shall also state the amount of money to be paid as an alternative if delivery cannot be had.

Decree for the delivery of movable property.

192. When the suit is for damages for breach of contract, if it appear that the defendant is able to perform the contract, the Court with the consent of the plaintiff may decree the specific performance of the contract within a time to be fixed by the Court, and in such case shall award an amount of damages to be paid as an alternative if the contract is not preformed.

Decree for damages for breach of contract.

193. When the suit is for a sum of money due to the plaintiff,

In suits for money, decree may order certain interest to be paid on the principal sum adjudged.

the Court may in the decree order interest to be paid on the principal sum adjudged from the date of suit to the date of payment at such rate as the Court may think proper.

Payment by instalments.

191. In all decrees for the payment of money, the Court may for any sufficient reason order that the amount shall be paid by instalments with or without interest.

If set-off be allowed

195. If the defendant shall have been allowed to set-off any demand against the claim of the plaintiff, the decree shall state what amount is due to the plaintiff and what amount (if any) is due to the defendant, and shall be for the recovery of any sum which shall appear to be due to either party. The decree of the Court with respect to any sum awarded to the defendant shall have the same effect and be subject to the same rules as if such sum had been claimed by the defendant in a separate suit against the plaintiff.

Effect of decree.

When the suit is for land, the Court may provide in the decree for payment of mesne profits with interest.

196. When the suit is for land or other property paying rent, the Court may provide in the decree for the payment of mesne profits or rent on such land or other property from the date of the suit until the date of delivery of possession to the decreeholder with interest thereupon at such rate as the Court may think proper.

Court may determine amount of mesne profits prior to passing decree or may reserve enquiry.

197. When the suit is for land and for mesne profits which have accrued thereon during a period prior to the date of suit, and the amount of such profits is disputed, the Court may either determine the amount prior to passing a decree for the land, or may pass a decree for the land and reserve the enquiry into the amount of mesne profits for the execution of the decree according as may appear most convenient.

Certified copies of the decree and judgment to be furnished.

198. Certified copies of the decree and judgment shall be furnished to the parties or their pleaders on application to the Court, and on the production of the necessary stamps where Stamps are required by any law for the time being in force. The application may be made either orally or by writing on unstamped paper.

CHAPTER IV.

EXECUTION OF DECREES.

Decree for immovable property.

199. If the decree be for land or other immovable property the same shall be delivered over to the party to whom it shall have been adjudged.

Decree for movable property, performance of contract, or alternative.

200. If the decree be for any specific movable, or for the specific performance of any contract, or for the performance of any other particular act it shall be enforced by the seizure, if practicable, of the specific movable and the delivery thereof to the party to whom it shall have been adjudged, or by imprisonment of the party against whom the decree is made, or by attaching his property and keeping the same under attachment until further order of the Court, or by both imprisonment and attachment if necessary; or if alternative damages be awarded, by levying such damages in the mode hereinafter provided for the execution of a decree for money.

Decree for money.

201. If the decree be for money, it shall be enforced by the imprisonment of the party against whom the decree is made, or by the attachment and sale of his property, or by both if necessary; and if such party be other than a defendant, the decree may be enforced against him in the same manner as a decree may be enforced under the provisions of this Chapter against a defendant. When the decree is against Government or against any Officer acting on behalf of Government, if the Officer whose duty it is to satisfy the decree neglect or refuse to satisfy the same, the Court shall report the case through the Sudder Court for the orders of Government, and execution shall not issue on the decree unless the same shall remain unsatisfied for the space of three months from the date of such report.

Decrees for execution of conveyances, or endorsement of negotiable instruments.

202. If the decree be for the execution of a conveyance or for the endorsement of a negotiable instrument, and the party ordered to execute or endorse such conveyance or negotiable instrument shall neglect or refuse so to do, any party interested in having the same executed or endorsed may prepare a conveyance or endorsement of the instrument in accordance with the terms of the decree, and tender the same to

the Court, for execution upon the proper stamp (if any is required by law), and the signature thereof by the judge shall have the same effect as the execution or endorsement thereof by the party ordered to execute.

Decree against representatives of deceased persons.

203. If the decree be against a party as the representative of a deceased person, and such decree be for money to be paid out of the property of the deceased person, it may be executed by the attachment and sale of any such property, or, if no such property can be found and the defendant fail to satisfy the Court that he has duly applied such property of the deceased as shall be proved to have come into his possession, the decree may be executed against the defendant to the extent of the property not duly applied by him, in the same manner as if the decree had been against the defendant personally.

Decree against sureties.

204. Whenever a person has become liable as security for the performance of a decree or of any part thereof, the decree may be executed against such person to the extent to which he has rendered himself liable, in the same manner as a decree may be enforced against a defendant.

What property liable to attachment and sale in execution of a decree.

205. The following property is liable to attachment and sale in execution of a decree, namely, lands, houses, goods, money, bank-notes, cheques, bills of exchange, promissory notes, Government securities, bonds, or other securities for money, debts, shares in the capital or joint-stock of any Railway, Banking, or other Public Company or Corporation, and all other property whatsoever, movable or immovable, belonging to the defendant, and whether the same be held in his own name or by another person in trust for him, or on his behalf.

Payment of monies under decrees &c.

206. All monies payable under a decree shall be paid into the Court, whose duty it is to execute the decree, unless such Court or the Court which passed the decree shall otherwise direct. No adjustment of a decree in part or in whole shall be recognized by the Court unless such adjustment be made through the Court or be certified to the Court by the person in whose favor the decree has been made or to whom it has been transferred.

Adjustment of decree to be made through the Court.

APPLICATION FOR EXECUTION.

Application for execution how to be made.

207. When any party in whose favor a decree has been made is desirous of enforcing the same, he shall apply to the Court whose duty it is to execute the decree either in person or through his pleader in the suit or some other pleader duly appointed to act for him in that behalf. If there be two or more decree-holders, one or more of them may make the application, if the Court shall see sufficient cause for allowing him or them to make such application; and the Court shall in such case pass such order as it may deem necessary for protecting the interests of the other decree-holders.

Application by whom to be made, if decree be transferred from original decree-holder to another person.

208. If a decree shall be transferred by assignment or by operation of law from the original decree-holder to any other person, application for the execution of the decree may be made by the person to whom it shall have been so transferred or his pleader; and if the Court shall think proper to grant such application, the decree may be executed in the same manner as if the application were made by the original decree-holder.

Cross-decrees.

209. If there be cross-decrees between the same parties for the payment of money, execution shall be taken out by that party only who shall have obtained a decree for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the smaller sum shall be entered on the decree for the larger sum as well as satisfaction on the decree for the smaller sum, and if both sums shall be equal, satisfaction shall be entered upon both decrees.

The above rules shall apply to decrees sent to a Court for execution as well as to decrees in the same Court.

Whenever a suit shall be pending in any Court against the holder of a decree of such Court, by the person or persons against whom the decree was passed, the Court may, if it appear just and reasonable to do so, stay execution on the decree either absolutely or on such terms as it may think just, until a decree shall be passed in the pending suit.

210. If any person against whom a decree has been made

If the person against whom a decree is made shall die before execution, application may be made against his legal representative or estate.

shall die before execution has been fully had thereon, application for execution thereof may be made against the legal representative or the estate of the person so dying as aforesaid; and if the Court shall think proper to grant such application, the decree may be executed accordingly.

Decree how to be executed against legal representative.

211. If the decree be ordered to be executed against the legal representative it shall be executed in the manner provided in Section 203 for the execution of a decree for money to be paid out of the property of a deceased person.

Form of application for execution of a decree.

212. The application for execution of a decree shall be in writing, and shall contain in a tabular form the following particulars, namely, the number of the suit, the names of the parties, the date of the decree, whether any appeal has been preferred from the decree, and whether any and what adjustment of the matter in dispute has been made between the parties subsequently to the decree; the amount of the debt or damages due upon it, or other relief granted by the decree; the amount of costs, if any were awarded; the name of the person against whom the enforcement of the decree is sought; and the mode in which the assistance of the Court is required, whether by the delivery of property specifically decreed, the arrest and imprisonment of the person named, or attachment of his property, or otherwise as the case may be.

Further particulars when the application is for an attachment of immovable property.

213. When the application is for an attachment of any land or other immovable property belonging to the defendant, it shall be accompanied with an inventory or list of such property, containing such a description of the property as may be sufficient to identify it, together with a specification of the defendant's share or interest therein, to the best of the applicant's belief and so far as he has been able to ascertain the same. And where the property is an estate paying revenue to Government or any portion of such estate, the application for an attachment shall be accompanied with an authenticated extract from the Register of the Collector's Office, specifying the

revenue of such estate, and the names and (where registered) the shares of the registered proprietors.

The application for an attachment of movable property may be general, or may be accompanied with an inventory of the property to be attached.

214. Where the application is for an attachment of the defendant's movable property or any part thereof, it may be accompanied with an inventory or list of the property to be attached, containing a reasonably accurate description thereof; or the applicant may apply for a general attachment of the defendant's movable property wheresoever the same can be found, to the amount of the judgment and costs.

Procedure on receiving the application.

215. The Court, on receiving any application for execution of a decree, containing the particulars above mentioned, or such of them as may be applicable to the case, shall cause the same to be compared with the original decree contained in the record of the suit, and if they shall be found to correspond therewith, shall enter a note of the application, and the date on which it was made in the Register of the suit. If the particulars shall not be found to correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application.

MEASURES REQUIRED IN CERTAIN CASES PRELIMINARY TO THE ISSUE OF THE WARRANT.

In certain special cases, notice to show cause why the decree should not be executed shall be issued.

216. If an interval of more than one year shall have elapsed between the date of the decree and the application for its execution, or if the enforcement of the decree be applied for against the heir or representative of an original party to the suit, the Court shall issue a notice to the party against whom execution may be applied for requiring him to show cause, within a limited period to be fixed by the Court, why the decree should not be executed against him. Provided that no such notice shall be necessary in consequence of an interval of more than one year having elapsed between the

Proviso.

date of the decree and the application for execution, if the application be made within one year from the date of the last order passed on any previous application for execution; and provided further that no such notice shall be necessary in consequence of the application being against an heir or representative, if upon a previous application for execution against the same person, the Court shall have ordered execution to issue against him.

Procedure after issue of notice.

217. When such notice is issued, if the party shall not attend in person or by a pleader, or shall not show sufficient cause to the satisfaction of the Court why the decree should not be forthwith executed, the Court shall order it to be executed accordingly. If the party shall attend in person or by a pleader, and shall offer any objection to the enforcement of the decree, the Court shall pass such order as in the circumstances of the case may appear to be just and proper.

Application for a general attachment of movable property.

218. Where the application is for a general attachment of the movable property of the defendant, it shall be competent to the Court, if it shall think proper, before issuing an order for such attachment, to require the applicant to give security to the satisfaction of the Court, in such sum as may be considered adequate, for any injury that may be occasioned by the attachment of property belonging to any other person than the defendant.

Before granting order, Court may make certain enquiries as to the property to be attached

219. Before granting the order for a general attachment or at the instance of the plaintiff at any time after judgment and before complete execution of the decree, the Court may summon the person against whom the application is made and examine him as to the property liable to be seized in satisfaction of the judgment. The Court may also, of its own motion or at the instance of any person interested in the enquiry, summon any other person whom it may think necessary and examine him in respect to such property, and may require the person summoned to produce all deeds and documents in his possession or power relating to such property.

Rules applicable to the summoning and examination of parties and witnesses after judgment.

220. In all cases in which a summons may be issued for the attendance of a party to a suit or any other person at any time after judgment, the rules applicable to the summoning and examination

of parties and witnesses after issues recorded, shall apply to the party or witnesses so summoned.

Issue of the Warrant.

Warrant when to issue.

221. When all necessary preliminary measures have been taken, where any such are required, the Court, unless it see cause to the contrary, shall issue the proper warrants for the execution of the decree.

Latest day of execution to be written in warrant, and time and manner of execution to be endorsed.

222. Every warrant for the execution of a decree shall bear the date of the day on which it is issued, and shall be signed by the Judge and sealed with the seal of the Court, and delivered to the Nazir or other proper Officer of the Court. A day shall be specified in the warrant on or before which it must be executed, and the Nazir or other proper Officer shall endorse upon the warrant the day and the manner in which it was executed, or if it was not executed the reason why it was not executed, and shall return it with such endorsement to the Court from which it issued.

Of the execution of Decrees for Immovable Property.

How immovable property is to be delivered when in the occupancy of a defendant or of some person under him.

223. If the decree be for a house, land, or other immovable property in the occupancy of a defendant or some person on his behalf, or of some person claiming under a title created by the defendant subsequently to the institution of the suit, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immovable property may have been adjudged, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and if need be, by removing any person who may refuse to vacate the same.

How it is to be delivered when in the occupancy of ryot.

224. If the decree be for land or other immovable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the warrant in some conspicuous place on the land or other immovable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be

customary, at some convenient place or places, the substance of the decree in regard to the property.

Division of estate or separation of share how to be made.

225. If the decree be for the division of an estate or for the separate possession of a share of an undivided estate paying revenue to Government, the division of the estate or the separation of the share shall be made by the Collector under the orders of the Court according to the rules in force for the partition of an estate paying revenue to Government.

Obstruction to execution of decree for immovable property.

226. If in the execution of a decree for land or other immovable property, the Officer executing the same shall be resisted or obstructed by any person, the person in whose favor such decree was made may apply to the Court at any time within one month from the time of such resistance or obstruction. The Court shall fix a day for investigating the complaint and shall summon the party against whom the complaint is made to answer the same.

Obstruction by defendant.

227. If it shall appear to the satisfaction of the Court that the obstruction or resistance was occasioned by the defendant or by some person at his instigation on the ground that the land or other immovable property is not included in the decree, or on any other ground, the Court shall enquire into the matter of the complaint and pass such order as may be proper under the circumstances of the case.

How defendant may be dealt with, if he persists in obstructing the complainant.

228. If the Court shall be satisfied, after such investigation of the facts of the case as it may deem proper, that the resistance or obstruction complained of was without any just cause and that the complainant is still resisted or obstructed in obtaining effectual possession of the property adjudged to him by the decree, by the defendant or some person at his instigation, the Court may, at the instance of the plaintiff and without prejudice to any proceedings to which such defendant or other person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, commit the defendant or such other person to close custody for such period not exceeding thirty days as may be necessary to prevent the continuance of such obstruction or resistance.

229. If it shall appear to the satisfaction of the Court that

the resistance or obstruction to the execution of the decree has been occasioned by any person, other than the defendant, claiming *bonâ fide* to be in possession of the property on his own account or on account of some other person than the defendant, the claim shall be numbered and registered as a suit between the decree-holder as plaintiff and the claimant as defendant, and the Court shall, without prejudice to any proceedings to which the claimant may be liable under any law for the time being in force for the punishment of such resistance or obstruction, proceed to investigate the claim in the same manner and with the like power as if a suit for the property had been instituted by the decree-holder against the claimant under the provisions of this Act, and shall pass such order for staying execution of the decree, or executing the same, as it may deem proper in the circumstances of the case.

Obstruction by a *bonâ fide* claimant other than the defendant.

230. If any person other than the defendant shall be dispossessed of any land or other immovable property in execution of a decree and such person shall dispute the right of the decree-holder to dispossess him of such property under the decree on the ground that the property was *bonâ fide* in his possession on his own account or on account of some other person than the defendant, and that it was not included in the decree, or, if included in the decree, that he was not a party to the suit in which the decree was passed, he may apply to the Court within one month from the date of such dispossession; and if, after examining the applicant, it shall appear to the Court that there is probable cause for making the application, the application shall be numbered and registered as a suit between the applicant as plaintiff, and the decree-holder as defendant, and the Court shall proceed to investigate the matter in dispute in the same manner and with the like powers as if a suit for the property had been instituted by the applicant against the decree-holder.

Procedure in certain cases if person dispossessed of immovable property dispute the right of decree-holder to be put into possession of such property.

231. The decision passed by the Court under either of the last two Sections shall be of the same force as a decree in an ordinary suit, and shall be subject under the rules applicable to appeals

Appeal from decision under the last two Sections.

from decrees; and no fresh suit shall be entertained in any Court between the same parties claiming under them in respect of the same cause of action.

OF THE EXECUTION OF DECREES FOR MONEY BY ATTACHMENT OF PROPERTY.

Attachment of property in execution of decree for money, to be as follows.

232. If the decree be for money, and the amount thereof is to be levied from the property of the person against whom the same may have been pronounced, the Court shall cause the property to be attached in the manner following.

Attachment of movable property in possession of defendant, by seizure.

233. Where the property shall consist of goods, chattels, or other movable property in the possession of the defendant, the attachment shall be made by actual seizure, and the Nazir or other Officer shall keep the same in his own custody, or in the custody of his subordinates, and shall be responsible for the due custody thereof.

Attachment by prohibitory order of movable property, to which defendant is entitled subject to a lien.

234. Where the property shall consist of goods, chattels, or other movable property to which the defendant is entitled subject to a lien or right of some other person to the immediate possession thereof, the attachment shall be made by a written order prohibiting the person in possession from giving over the property to the defendant.

Attachment of immovable property by prohibitory order.

235. Where the property shall consist of lands, houses, or other immovable property, the attachment shall be made by a written order prohibiting the defendant from alienating the property by sale, gift, or in any other way, and all persons from receiving the same by purchase, gift, or otherwise.

Attachment of debts not being negotiable instruments, and of shares in public Companies, &c. by prohibitory order.

236. Where the property shall consist of debts not being negotiable instruments, or of shares in any Railway, Banking, or other public Company or Corporation, the attachment shall be made by a written order prohibiting the creditor from receiving the debts, and the debtor from making payment thereof to any person whomsoever, until the further order of the Court, or prohibiting the person in whose name the shares may be standing from making any transfer of the shares or receiving

payment of any dividends thereof, and the Manager, Secretary, or other proper Officer of the Company or Corporation from permitting any such transfer or making any such payment until such further order.

Attachment of money or securities in deposit in a Court of Justice or with a Government Officer, by notice.

237. Where the property shall consist of money, or of any security, in deposit in any Court of Justice or in the hands of any Officer of Government, which is or may become payable to the defendant or on his behalf, the attachment shall be made by a notice to such Court or Officer requesting that the money or security may be held subject to the further order of the Court by which the notice may be issued. Provided that, if such money or security is in deposit in any Court of Justice, any question of title or priority which may arise between the decree-holder and any other person, not being the defendant, claiming to be interested in such money or security by virtue of any assignment, attachment, or otherwise, shall be determined by the Court in which such money or security is in deposit.

Proviso.

Attachment of negotiable instruments by seizure.

238. Where the property shall consist of a negotiable instrument, the attachment shall be made by actual seizure, and the Nazir or other Officer shall bring the same into Court, and such instrument shall be held subject to the further orders of the Court.

When the attachment is by prohibitory order, how the order is to be made known.

239. In the case of goods, chattels, or other movable property not in the possession of the defendant, the written order shall be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the person in possession of the property. In the case of lands, houses, or other immovable property, the written order shall be read aloud at some place on or adjacent to such lands, houses, or other property, and shall be fixed up in some conspicuous part of the Court-house; and when the property is land or any interest in land, the written order shall also be fixed up in the Office of the Collector of the Zillah in which the land may be situated. In the case of debts, the written order shall be fixed up in some conspicuous part of the Court-

house, and copies of the written order shall be delivered or sent registered by post to each individual debtor. And in the case of shares in the capital or joint-stock of any Railway, Banking, or other public Company or Corporation, the written order shall in like manner be fixed up in some conspicuous part of the Court-house, and a copy of the order shall be delivered or sent registered by post to the Manager, Secretary, or other proper Officer of the Company or Corporation.

Any private alienation of property after attachment to be null and void.

240. After any attachment shall have been made by actual seizure, or by written order as aforesaid, and in the case of an attachment by written order after it shall have been duly intimated and made known in manner aforesaid, any private alienation of the property attached, whether by sale, gift, or ortherwise, and any payment of the debt or debts or dividends or shares to the defendant during the continuance of the attachment, shall be null and void.

Payment by a debtor who has been prohibited from making payment to his creditor.

241. In every case in which a debtor shall be prohibited from making payment of his debt to the creditor, he may pay the amount into Court and such payment shall have the same effect as payment to the party entitled to receive the debt.

The Court may direct money or bank-notes to be paid to the plaintiff, or other attached property to be sold, and proceeds to be paid to him.

242. In all cases of attachment under the preceding Sections, it shall be competent to the Court, at any time during the attachment, to direct that any part of the property so attached as shall consist of money or bank-notes, or a sufficient part thereof, shall be paid over to the party applying for execution of the decree; or that any part of the property so attached as may not consist of money or bank-notes, so far as may be necessary for the satisfaction of the decree, shall be sold, and that the money which may be realized by such sale, or a sufficient part thereof, shall be paid to such party.

Where the property attached consists of debts or immovable property, a manager may be appointed.

243. When the property attached shall consist of debts due to the party who may be answerable for the amount of the decree, or of any lands, houses, or other immovable property, it shall be competent to the Court to appoint a manager

of the said property, with power to sue for the debts, and to collect the rents or other receipts and profits of the land or other immovable property, and to execute such deeds or instruments in writing as may be necessary for the purpose, and to pay and apply such rents, profits, or receipts towards the payment of the amount of the decree and costs; or when the property attached shall consist of land, if the judgment debtor can satisfy the Court that there is reasonable ground to believe that the amount of the judgment may be raised by the mortgage of the land, or by letting it on lease, or by disposing by private sale of a portion of the land or of any other property belonging to the judgment debtor, it shall be competent to the Court, on the application of the judgment debtor, to postpone the sale for such period as it may think proper to enable the judgment debtor to raise the amount. In any case in which a manager shall be appointed under this Section, such manager shall be bound to render due and proper accounts of his receipts and disbursements from time to time as the Court may direct.

Court may postpone sale of land if satisfied that amount of judgment may be raised by mortgage, &c.

Manager to render accounts.

244. When in any District, where land paying revenue to Government is ordinarily sold by the Collector, as provided in Section 248, the property attached shall consist of any such land, or of a share in any such land, if the Collector shall represent to the Court that the public sale of the land or share is objectionable, and that satisfaction of the decree may be made within a reasonable period by a temporary alienation of the land or share, the Court may authorize the Collector, on security for the amount of the decree or for the value of such land or share being given, to make provision for such satisfaction in the manner recommended by the Collector, instead of proceeding to a public sale of the land or share.

When Court may authorize Collectors to stay public sale of land.

On security being given.

245. If the amount decreed with costs and all charges and expenses which may be incurred by the attachment be paid into Court, or if satisfaction of the decree be otherwise made, an order shall be issued for the withdrawal of the attachment; and if the defendant shall desire it and shall deposit in Court a sum sufficient to cover the expense, the order shall be proclaimed or inti-

Order for withdrawal of attachment after satisfaction of the decree.

mated in the same manner as hereinbefore prescribed for the proclamation or intimation of the attachment; and such steps shall be taken as may be necessary for staying further proceedings in execution of the decree.

Of Claims to Attached Property.

How claims and objections to sale of attached property are to be investigated.

246. In the event of any claim being preferred to, or objection offered against the sale of lands or any other immovable or movable property which may have been attached in execution of a decree or under any order for attachment passed before judgment, as not liable to be sold in execution of a decree against the defendant, the Court shall, subject to the proviso contained in the next succeeding Section, proceed to investigate the same with the like powers as if the claimant had been originally made a defendant to the suit, and also with such powers as regards the summoning of the original defendant as are contained in Section 220. And if it shall appear to the satisfaction of the Court that the land or other immovable or movable property was not in the possession of the party against whom execution is sought, or of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, or that, being in the possession of the party himself at such time, it was so in his possession not on his own account or as his own property, but on account of or in trust for some other person, the Court shall pass an order for releasing the said property from attachment. But if it shall appear to the satisfaction of the Court that the land or other immovable or movable property was in possession of the party against whom execution is sought, as his own property, and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of ryots or cultivators or other persons paying rent to him at the time when the property was attached, the Court shall disallow the claim. The order which may be passed by the Court under this Section shall not be subject to appeal, but the party against whom the order may be given shall be at liberty to bring a suit to establish his right at any time within one year from the date of the order.

247. The claim or objection shall be made at the earliest op-

Claims and objections should be preferred at the earliest opportunity.

portunity to the Court which shall have ordered the attachment; and if the property to which the claim or objection applies, shall have been advertized for sale, the sale may (if it appears necessary) be postponed for the purpose of making the investigation mentioned in the last preceding Section. Provided that no such investigation shall be made if it appear that the making of the claim or objection was designedly and unnecessarily delayed, with a view to obstruct the ends of justice. The order disallowing the investigation shall not be subject to appeal, and the claimant shall be left to prosecute his claim by a regular suit.

OF SALES IN EXECUTION OF DECREES.

Sales to be by public auction.

248. Sales in execution of decrees shall be conducted by an Officer of the Court or by any other person whom the Court may appoint, and shall in all cases be made by public auction in manner hereinafter mentioned. Provided that if the property to be sold shall consist of negotiable securities or of shares in any Railway, Banking, or other public Company or Corporation, it shall be competent to the Court, instead of directing the sale to be made by public auction, to authorize the sale of such securities or shares through a broker at the market-rate of the day. If the property to be sold shall be land paying revenue to Government and the Government shall so direct, the sale shall be conducted by the Collector on the requisition of the Court.

Exception as to negotiable securities and shares in public Companies.

Sale by Collector of lands paying revenue to Government.

Notification of sales by public auction.

249. In all cases of intended sale by public auction, whether of movable or immovable property, in execution of a decree, a proclamation of the intended sale, specifying the time and place of sale, the property to be sold, the revenue assessed upon the state when the property to be sold is an estate or a part of an estate paying revenue to Government, and the amount for the recovery of which the sale is ordered, together with any other particulars that the Court may think necessary, shall be made in the current language of the District. The proclamation shall also declare that the sale

extends only to the right, title, and interest of the defendant in the property specified therein. Such proclamation shall be made on the spot where the property is attached by beat of drum or in such other mode as may be customary; and a written notification to the same effect shall be affixed in the Court-house of the Judge who shall have ordered the sale, and in some conspicuous spot in the town or village in which the attachment may have taken place. When the property ordered to be sold may consist of land or of any right or interest in land, the written notification shall also be affixed in the Office of the Collector of the District in which such land is situate and in the Court-house of the principal Civil Court of the District where the Court which ordered the sale is subordinate to such Court. The sale shall not take place until after the expiration of at least thirty days in the case of immovable property, and of at least fifteen days in the case of movable property, calculated from the date on which the notification shall have been affixed in the Court-house of the Judge ordering the sale.

Time of sale.

250. The usual process for attachment and sale when the property to be attached consists of goods, chattels, or other personal estate other than debts, may be issued either successively or simultaneously as the Court directing the sale may in each instance think proper.

The process for attachment and sale may in certain cases be issued simultaneously.

251. In all cases of sale of movable property, the price of every lot shall be paid for at the time of sale or as soon after as the Officer holding the sale shall direct, and in default of such payment the property shall forthwith be again put up and sold. On payment of the purchase money, the Officer holding the sale shall grant a receipt for the same, and the sale shall become absolute.

Mode of payment on sale of movable property.

252. No irregularity in the sale of movable property under an execution, shall vitiate the sale; but any person who may sustain any injury by reason of such irregularity may recover damages by a suit in Court.

Irregularity not to vitiate sale of movable property, but any person injured may recover damages by suit.

Deposit by purchaser in case of sale of immovable property.

253. In all cases of sale of immovable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

When full amount of purchase money to be made good.

Procedure on default.

254. The full amount of purchase money shall be made good by the purchaser before sunset of the fifteenth day from that on which the sale of the property took place, or if the fifteenth day be a Sunday or other close holiday, then on the first office day after the fifteenth day; and in default of payment within such period, the deposit, after defraying the expenses of the sale, shall be forfeited to Government, and the property shall be re-sold and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may subsequently be sold. If the proceeds of the sale which is eventually consummated be less than the price bid by such defaulting purchaser, the difference shall be leviable from him under the rules for enforcing the payment of money in satisfaction of a decree of Court.

Defaulting purchaser answerable for loss by re-sale.

Notification on re-sale of immovable property.

255. Every re-sale of immovable property in default of payment of the purchase money shall be made after the issue of a fresh notification in the manner and for the period prescribed for original sales.

Confirmation of sale.

256. No sale of immovable property shall become absolute until the sale has been confirmed by the Court. At any time within thirty days from the date of the sale, application may be made to the Court to set aside the sale on the ground of any material irregularity in publishing or conducting the sale, but no sale shall be set aside on the ground of such irregularity unless the applicant shall prove to the satisfaction of the Court that he has sustained substantial injury by reason of such irregularity.

The sale, if not

257. If no such application as is mentioned in the last preceding Section be made, or if such application

objected to for irregularity, or if the objection is disallowed, shall become absolute.

be made and the objection be disallowed, the Court shall pass an order confirming the sale; and in like manner if such application be made, and if the objection be allowed, the Court shall pass an order setting aside the sale for irregularity. If the objection be allowed, the order made to set aside the sale shall be final; if the objection be disallowed, the order confirming the sale shall be open to appeal; and such order, unless appealed from, and if appealed from, then the order passed on the appeal, shall be final; and the party against whom the same has been given shall be precluded from bringing a suit for establishing his claim.

When the order to set aside a sale shall be open to appeal.

258. Whenever a sale of immovable property is set aside, the purchaser shall be entitled to receive back his purchase money with or without interest, in such manner as it may appear proper to the Court to direct in each instance.

If the sale be set aside price to be returned to purchaser.

259. After a sale of immovable property shall have become absolute in manner aforesaid, the Court shall grant a certificate to the person who may have been declared the purchaser at such sale, to the effect that he has purchased the right, title, and interest of the defendant in the property sold, and such certificate shall be taken and deemed to be a valid transfer of such right, title, and interest.

Certificate to be granted to the purchasers of land.

260. The certificate shall state the name of the person who at the time of sale is declared to be the actual purchaser, and any suit brought against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Certificate to state the name of actual purchaser.

261. Where the property sold shall consist of goods, chattels, or other movable property in the possession of the defendant, or to the immediate possession of which the defendant is entitled, and of which actual seizure has been made, the property shall be delivered to the purchaser.

Delivery of movable property in the possession of defendant.

262. Where the property sold shall consist of goods, chattels, or other movable property to which the defendant is entitled subject to a lien or right of any person to the immediate possession thereof, the delivery to the purchaser shall as far as practicable be made by giving notice to the person in possession prohibiting him from delivering possession of the property to any person except the purchaser thereof.

Delivery of movable property to which defendant is entitled subject to lien.

263. If the property sold shall consist of a house, land, or other immovable property, in the occupancy of a defendant or some person on his behalf or of some person claiming under a title created by the defendant subsequently to the attachment of such property, the Court shall order delivery thereof to be made by putting the party to whom the house, land, or other immovable property may have been sold, or any person whom he may appoint to receive delivery on his behalf, in possession thereof, and, if need be, by removing any person who may refuse to vacate the same.

Delivery of immovable property in the occupancy of defendants, &c.

264. If the property sold shall consist of land or other immovable property in the occupancy of ryots or other persons entitled to occupy the same, the Court shall order delivery thereof to be made by affixing a copy of the certificate of sale in some conspicuous place on the land or other immovable property, and proclaiming to the occupants of the property by beat of drum, or in such other mode as may be customary, at some convenient place or places, that the right, title, and interest of the defendant has been transferred to the purchaser.

Delivery of immovable property in the occupancy of ryots, &c.

265. Where the property sold shall consist of debts not being negotiable instruments or of shares in any Railway, Banking, or other public Company or Corporation, the delivery thereof shall be by a written order of the Court prohibiting the creditor from receiving the debts and the debtor from making payment thereof to any person or persons except the purchaser, or prohibiting the person in whose name the shares may be standing, from making any transfer of the shares to any person except the purchaser, or receiving payment of any dividends thereon, and the Manager, Secretary, or other proper Officer of the Com-

Delivery of debts not being negotiable instruments, and of shares in public Companies.

pany or Corporation from permitting any such transfer or making any such payment to any person except the purchaser.

Delivery of negotiable securities of which actual seizure has been made

266. Where the property sold shall consist of negotiable of which actual seizure has been made, the same shall be delivered to the purchaser thereof.

Transfer of securities and shares.

267. If the endorsement or conveyance of the party in whose name any negotiable security or any share in a public Company or Corporation is standing, shall be required to transfer the same, the Judge may endorse the security or the certificate of the share or may execute such other document as may be necessary for transferring the same. The endorsement or execution shall be in the following form or to the like effect—" A. B. by C. D. Judge of the Court of *(or as the case may be)*; in a suit by E. F. *versus* A. B." Until the transfer of such security or share, the Judge may, by order, appoint some person to receive any interest or dividend due thereon, and to sign receipts for the same; and any endorsement made or document executed or receipts signed as aforesaid shall be as valid and effectual for all purposes, as if the same had been made or executed or signed by the party himself.

Resisting or obstructing purchasers in obtaining possession of property.

268. If the purchaser of any immovable property sold in execution of a decree shall be resisted or obstructed in obtaining possession of the property, the provisions contained in Sections 226, 227, and 228 relating to resistance or obstruction to a party in whose favor a suit has been decreed in obtaining possession of the property adjudged to him, shall be applicable in the case of such resistance or obstruction.

Obstruction by claimants other than defendants.

269. If it shall appear that the resistance or obstruction to the delivery of possession was occasioned by any person other than the defendant claiming a right to the possession of the property sold as proprietor, mortgagee, lessee, or under any other title, or if in the delivery of possession to the purchaser any such person claiming as aforesaid shall be dispossessed, the Court, on the complaint of the purchaser, or of such person claiming as aforesaid, if made within one month from the date of such resistance or obstruction or of such dispossession as the case may be, shall

enquire into the matter of the complaint and pass such order as may be proper in the circumstances of the case. The order shall not be subject to appeal, but the party against whom it is given shall be at liberty to bring a suit to establish his right at any time within one year from the date thereof.

Attaching creditor to be first paid out of property attached.

270. Whenever a property is sold in execution of decree, the person on whose application such property was attached shall be entitled to be first paid out of the proceeds thereof, notwithstanding a subsequent attachment of the same property by another party in execution of a prior decree.

Surplus to be rateably distributed among decree-holders who have taken out execution prior to the order for distribution.

271. If, after the claim of the person on whose application the property was attached has been satisfied in full from the proceeds of the sale, any surplus remain, such surplus shall be distributed rateably amongst any other persons who prior to the order for such distribution may have taken out execution of decrees against the same defendant and not obtained satisfaction thereof. Provided that, when any property is sold subject to a mortgage, the mortgagee shall not be entitled to share in any surplus arising from such sale.

Proviso where property is sold subject to a mortgage.

Court may on application order another decree-holder to be satisfied out of proceeds of property attached under a decree obtained fraudulently.

272. If it shall appear to the Court, upon the application of a decree-holder, that any other decree under which property has been attached was obtained by fraud or other improper means, the Court may order that the applicant shall be satisfied out of the proceeds of the property attached so far as the same may suffice for the purpose if such other decree be a decree of that Court, or, if it be a decree of another Court, may stay the proceedings to enable the applicant to obtain a similar order from the Court by which the decree was made.

OF ARREST IN EXECUTION OF DECREES FOR MONEY.

On what grounds, application for discharge may be made.

273. Any person arrested under a warrant in execution of a decree for money may, on being brought before the Court, apply for his discharge on the ground that he has no present means of

paying the debt, either wholly or in part, or, if possessed of any property, that he is willing to place whatever property he possesses at the disposal of the Court. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and necessary implements of his trade), and of the places respectively where such property is to be found, or shall state that, with the exceptions above-mentioned, the applicant is not possessed of any property, and the application shall be subscribed and verified by the applicant in the manner hereinbefore prescribed for subscribing and verifying plaints.

Form of application.

Verification.

274. Upon such application being made, the Court shall examine the applicant in the presence of the plaintiff or his pleader as to his then circumstances, and as to his future means of payment, and shall call upon the plaintiff to show cause why he does not proceed against any property of which the defendant is possessed and why the defendant should not be discharged; and should the plaintiff fail to show such cause, the Court may direct the discharge of the defendant from custody. Pending any enquiry which the Court may consider it necessary to make into the allegations of either party, the Court may leave the defendant in the custody of the Officer of the Court to whom the service of the warrant was entrusted, on the defendant making the necessary deposit for paying the fees of such Officer; or if the defendant furnish good and sufficient security for his appearance at any time when called upon while such enquiry is being made, his surety or surties undertaking in default of such appearance to pay the amount mentioned in the warrant, the Court may release the defendant on such security.

Procedure on application.

275. The discharge of the defendant under the last preceding Section shall not protect him from being arrested again and imprisoned if it should be shown that, in the application made by him, he had been guilty of any concealment or of wilfully making any false statement respecting the property be-

Defendant liable to be again arrested if proved guilty of fraudulent concealment of property, &c.

longing to him, whether in possession or in expectancy or held for him in trust, or had fraudulently concealed, transferred, or removed any property, or had committed any other act of bad faith; nor shall such discharge exempt from attachment and sale any property then in the possession of the defendant, or of which he may afterwards become possessed.

Of the execution of Decrees by Imprisonment.

Subsistence-money of a defendant in gaol how fixed and furnished.

276. When a defendant is committed to prison in execution of a decree, the Court shall fix whatever monthly allowance it shall think sufficient for his subsistence, not exceeding four annas per day, which shall be supplied by the party at whose instance the decree may have been executed. to the proper Officer of the Court or of the gaol where the defendant may be in custody, by monthly payments in advance, before the first day of each month; the first payment to be made for such portion of the current month as may remain unexpired before the defendant is committed to prison.

Court may vary the allowance in case of illness or for other special cause.

277. The Court may, in case of illness or for other special cause, fix the monthly allowance at such sum not exceeding six annas per day as shall appear necessary. The order fixing such allowance may from time to time be revised and altered on due cause being shown.

Release of defendant.

278. A defendant shall be released at any time on the decree being fully satisfied, or at the request of the person at whose instance he may have been imprisoned, or on such person omitting to pay the allowance as above directed. No person shall be imprisoned on account of a decree for a longer period than two years, or for a longer period than six months if the decree be for the payment of money not exceeding five hundred Rupees, or for a longer period than three months if the decree be for the payment of money not exceeding fifty Rupees.

Imprisonment not to be longer than 2 years.
6 months if decree for money not exceeding 500 Rs.
3 months if not exceeding 50 Rs.

Subsistence-money to be added to amount of decree.

279. Sums disbursed by a plaintiff for the subsistence of a defendant in gaol shall be added to the costs of the decree, and shall be recoverable by the attachment and sale of the property of the

defendant under the foregoing rules; but the defendant shall not be detained in custody or arrested on account of any sums so disbursed.

Application may be made for discharge on a surrender of the whole of the debtor's property.

280. Any person in confinement under a decree may apply to the Court for his discharge. The application shall contain a full account of all property of whatever nature belonging to the applicant, whether in expectancy or in possession, and whether held exclusively by himself or jointly with others, or by others in trust for him (except the necessary wearing apparel of himself and his family and the necessary implements of his trade), and of the places respectively where such property is to be found; and such application shall be subscribed and verified by the applicant in the manner hereinbefore provided for subscribing and verifying plaints.

Procedure on such application.

281. On such application being made, the Court shall cause the plaintiff to be furnished with a copy of the account of the defendant's property, and shall fix a reasonable period within which the plaintiff may cause the whole or any part of such property to be attached and sold or may make proof that the defendant, for the purpose of procuring his discharge without satisfying the decree, has wilfully concealed property, or his right or interest therein, or fraudulently transferred or removed property, or committed any other act of bad faith. If within such period the plaintiff shall fail to make such proof, the Court shall cause the defendant to be set at liberty. If the plaintiff shall within the time specified or at any subsequent period prove to the satisfaction of the Court that the defendant has been guilty of any of the acts abovementioned, the Court shall, at the instance of the plaintiff, either retain the defendant in confinement, or commit him to prison, as the case may be, unless he shall have already been in confinement two years on account of the decree; and may also, if it shall think proper, send the defendant to the Magistrate to be dealt with according to law.

Defendant to be discharged on plaintiff failing to prove fraud or concealment by defendant.

If guilty of fraud or concealment, debtor's imprisonment may be extended to two years;

and he may be further dealt with criminally.

282. A defendant once discharged shall not again be imposed

Though the defendant be discharged, his property is liable for the decree.

on account of the same decree, except under the operation of the last preceding Section, but his property shall continue liable, under the ordinary rules, to attachment and sale until the decree shall be fully satisfied, unless the decree shall be for a sum less than one hundred Rupees and on account of a transaction bearing date subsequently to the passing of this Act. When the decree shall be for a sum less than one hundered Rupees, and on account of a transaction bearing date as above, the Court may declare a defendant who shall be discharged as aforesaid absolved from further liability under that decree.

How questions regarding amount of mesne profits and interest, and sums paid in satisfaction of decree, are to be determined.

283. All questions regarding the amount of any mesne profits which by the terms of the decree may have been reserved for adjustment in the execution of the decree, or of any mesne profits or interest which may be payable in respect of the subject matter of a suit between the date of the institution of the suit and execution of the decree, as well as questions relating to sums alleged to have been paid in discharge or satisfaction of the decree or the like, shall be determined by order of the Court executing the decree and not by separate suit; and the order passed by the Court shall be open to appeal.

Of Execution of a Decree out of the Jurisdiction of the Court by which it was passed.

How a decree of one Court may be executed within the jurisdiction of another Court.

284. A decree of any Civil Court within any of the British territories in India or established by authority of the Governor General of India in Council in the territories of any Foreign Prince or State, which cannot be executed within the jurisdiction of the Court whose duty it is to execute the same, may be executed within the jurisdiction of any other such Court in the manner following.

Application for such execution.

285. The plaintiff in such case may apply to the Court whose duty it is to execute the decree, to transmit a copy thereof, together with a certificate that satisfaction of such decree has not been obtained by execution within the jurisdiction of the said Court, and a copy of any order for execution of such decree that may have been

passed, to the Court by which the applicant may wish the decree to be executed.

Copy of decree and order for execution to be transmitted.

286. The Court, unless there be any sufficient reason to the contrary, shall cause such copies and certificate to be prepared: and the same, after being signed by the Judge and sealed with the seal of the Court, shall be transmitted to the Court indicated by the applicant if that Court be within the same District, otherwise to the principal Civil Court of original jurisdiction in the District in which the applicant may wish the decree to be executed; and the Court to which such copies and certificates are transmitted shall cause the same to be filed therein, without any proof of the judgment or order for execution, or of the copies thereof, or of the seal or jurisdiction of any Court, or of the signature of any judge, unless it shall, under any peculiar circumstances to be specified in an order, require such proof.

Decree or order transmitted, to be executed as that of the Court.

287. The copy of any decree, or of any order for execution, when filed in the Court to which it shall have been transmitted for the purpose of being executed as aforesaid, shall for such purpose have the same effect as a decree or order for execution made by such Court, and may, if the Court be the principal Civil Court of original jurisdiction in the District, be executed by such Court, or any Court subordinate thereto, to which it may entrust the execution of the same.

Execution how to be enforced by Court applied to.

288. When application shall be made to any Court to execute the decree of any other Court as aforesaid, the Court to which the application shall be made or referred shall proceed to execute the same according to its own rules in the like cases, provided that such Court shall have no power to inquire into the validity of the decree unless it appear upon the face of the decree that the Court by which it was made had no jurisdiction to make the same.

Wrongful acts or irregularities in executing decree to be punished by Court applied to.

289. The Court to which such application is made or referred for execution as aforesaid, shall take cognizance of and punish all wrongful acts or irregularities done or committed in executing such decree; and all persons disobeying or

obstructing the execution of such decree shall be punishable by such Court in the same manner as if the decree had been made by such Court.

Court applied to may in certain cases stay execution or order restitution of property or discharge of defendant.

290. The Court to which such application is made may, upon good and sufficient cause being shown, stay the execution of the decree for a reasonable time, to enable the defendant to apply to the Court by which the decree was passed or to any Court having appellate jurisdiction in respect of the decree or the execution thereof, for an order to stay the execution, or for any other order relating to the decree or the execution thereof, which such Court of first instance or Court of Appeal might have made if execution had been issued by such Court of first instance, or if application for execution had been made to such Court; and in case the property or person of the defendant shall have been seized under an execution, the Court which issued the execution may order the restitution of the property or the discharge of the person of the defendant pending the result of such application.

Before staying execution, Court may require security from, or impose conditions upon defendant.

291. Before making an order to stay execution or for the restitution of property or the discharge of the defendant under the last preceding Section, the Court may require such security from or impose such conditions upon the defendant as it may deem reasonable.

Order of Court passing decree or of Appellate Court to be binding upon Court applied to.

292. Any order of the Court in which the decree was passed or of such Court of Appeal as aforesaid, shall be binding upon the Court to which the application for execution was made, and shall be a sufficient indemnity for all persons acting in execution of process issued by such last mentioned Court.

Liability of defendant discharged, to be re taken.

293. No discharge of a defendant under the provisions of Section 290 shall prevent him from being re-taken in execution of the decree.

What appeal from orders for execution under this Act.

294. All orders of a Court for executing the decree of another Court shall be subject to the same rules, in respect to appeal, as if the decree had been originally passed by the Court making such order.

295. If, in execution of a decree, a warrant of arrest or other

Warrant of arrest or other process in execution of decrees, how to be enforced in Military Cantonments, &c.

process is to be enforced within the limits of a Garrison, Cantonment, Military Station, or Military Bazar, the Officer entrusted with the execution of such warrant or other process shall carry the same to the Commanding Officer, or in his absence to the Senior Officer actually present in the Garrison, Cantonment, Station, or Military Bazar; and the Commanding Officer or such Senior Officer, upon such warrant or other process being produced to him, shall back the same with his signature, and, in the case of a warrant of arrest, shall cause the person named in the warrant to be arrested if within the limits of his command and delivered, according to the exigency of the warrant, to the Civil Officer charged with the execution thereof.

Rules contained in this Chapter to be applicable to all Civil process.

296. The rules contained in this Chapter shall be applicable to the execution of any judicial process for the sale of property or for the payment of money which may be ordered by a Civil Court in any Civil proceeding.

CHAPTER V.

Of Pauper Suits.

Suits may be brought *in formâ pauperis*.

297. A suit may be brought *in formâ pauperis* in the Court having jurisdiction over the claim, subject to the following rules.

What suits excepted.

298. No pauper suit shall be brought for the recovery of any sum of money on account of damages for loss of caste, slander, abusive language, or assault.

Application to be by petition on stamp paper.

299. The application to the Court for permission to sue *in formâ pauperis* shall be by petition, which shall be written on a stamp paper of the value of eight annas.

Petition what to contain.

300. The petition shall contain the particulars required by Section 26 of this Act, in regard to plaints, and shall have annexed to it a Schedule of any movable or immovable property belonging to the petitioner, with the estimated value thereof, and shall be subscribed and verified in the manner hereinbefore prescribed for the subscription and verification of plaints.

301. The petition shall be presented to the Court by the

How to be presented.

petitioner in person; but if the petitioner satisfy the Court that he is prevented by sickness from attending the Court in person, or if the petitioner be a female, who, according to the customs and manners of the country ought not to be compelled to appear in public, the petition may be presented by a duly authorized agent who may be able to answer all material questions relating to the application and who shall be liable to be examined in the same manner as the party represented by him might have been examined had such party attended in person.

Examination of petitioner, if a female, how to be taken.

Petition to be rejected if not in form.

302. If the petition be not framed or presented in the manner laid down in the last two preceding Sections, the Court shall reject the petition.

If in form, Court how to proceed.

If presented by an agent, Court may order petitioner to be examined in like manner as an absent witness.

303. If the petition be in form and duly presented, the Court shall proceed to examine the petitioner, or the agent of the petitioner as the case may be regarding the merits of the claim and the property of the petitioner. When the petition is presented by an agent, the Court may also if it think proper, order that the petitioner be examined in the manner hereinbefore prescribed for the examination of absent witnesses.

Court may reject the application.

304. If it appear to the Court upon such examination that the defendant, or the matter of the suit, is not within the jurisdiction of the Court, or that the claim is barred by the Statute of Limitations, or that the allegations of the petitioner do not constitute a reasonable ground of action, or (if none of the objections above stated exist) that the petitioner has failed to show that he is not possessed of sufficient means to enable him to pay for the stamps required for the institution and prosecution of the suit, or that the petitioner has recently disposed of any property fraudulently or with a view to obtain the benefit of this Chapter, the Court shall refuse to allow the petitioner to sue as a pauper.

Notice to opposite party.

305. If upon such examination the Court shall see no reason to refuse the application on any of the grounds stated in the last preceding Section, it shall fix a day (of which at least ten days' previous notice shall be given to the opposite party) for receiving such evidence as the

petitioner may adduce in proof of his pauperism, and for hearing any evidence which the opposite party may bring forward in disproof of the pauperism of the petitioner.

After a summary enquiry, the Court to pass a final order.

306. On the day appointed for the hearing, or as soon after as the business of the Court will permit, the Court shall consider any objections made by the opposite party, and shall examine any witnesses produced by either party and make a memorandum of the substance of their evidence, and shall either allow or refuse to allow the petitioner to sue as a pauper.

Court may direct a local enquiry.

307. Previously to passing a final order in the case, the Court may, if it deem fit, institute a local enquiry, in the manner laid down in Section 180 of this Act, regarding the property of the petitioner or regarding the amount or value of any property claimed.

Course of proceeding to be observed, if application be admitted.

308. If the application of the petitioner be granted and numbered, it shall be registered and shall be deemed the plaint in the suit, and the suit shall proceed in all other respects as an ordinary suit, except that the plaintiff shall not be liable to any further stamp duty in respect of any petition, appointment of a pleader, or other proceeding connected with the suit or with the execution of any decree passed in it.

On the decision of the suit, costs how to be calculated.

309. On the decision of the suit, the Court shall calculate the amount of stamps which would have been paid by the plaintiff if he had not been permitted to sue as a pauper, and such amount shall be recoverable by Government from any party ordered by the decree to pay the same, in the same manner as costs of suit are recoverable.

Refusal to allow to sue as a pauper, to bar any subsequent application of the like nature.

310. The refusal to allow the petitioner to sue as a pauper shall be a bar to any subsequent application of the like nature in respect of the same cause of action; but the plaintiff shall be at liberty to institute a suit in the usual manner in respect of such cause of action, unless precluded by the rules for the limitation of suits.

No appeals from orders under this Chapter.

311. The orders passed by the Court under the provisions of this Chapter shall not be subject to appeal.

CHAPTER VI.

REFERENCE TO ARBITRATION

Reference to arbitration on application of the parties.

312. If the parties to a suit are desirous that the matters in difference between them in the suit, or any of such matters, shall be referred to the final decision of one or more arbitrator or arbitrators, they may apply to the Court at any time before final judgment for an order of reference.

Application how to be made.

313. The application shall be made by the parties in person or by their pleaders specially authorized in that behalf by an instrument in writing, which shall be presented to the Court at the time of making the application, and shall be filed with the proceedings in the suit.

Nomination and appointment of arbitrators.

314. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are desirous at the nomination shall be made by the Court, the Court shall appoint the arbitrator or arbitrators.

Order of reference.

315. The Court shall, by an order under its seal, refer to the arbitrator or arbitrators the matters in difference in the suit which he or they may be required to determine, and shall fix such time as it may think reasonable for the delivery of the award, and the time so fixed shall be specified in the order.

When the reference is to two or more, the order shall provide for difference of opinion.

316. If the reference be to two or more arbitrators, provision shall be made in the order for a difference of opinion among the arbitrators, by the appointment of an umpire, or by declaring that the decision shall be with the majority, or by empowering the arbitrators to appoint an umpire, or otherwise as may be agreed upon between the parties; or if they cannot agree, as the Court may determine.

Powers of arbitrators.

317. When a reference is made to arbitration by an order of Court, the Court shall issue the same processes to the parties and witnesses whom the arbitrator or arbitrators or umpire may desire to have examined, as the

Court is authorized to issue in suits tried before it; and persons not attending in consequence of such process, or making any other default, or refusing to give their testimony, or being guilty of any contempt to the arbitrator or arbitrators or umpire during the investigation of the suit, shall be subject to the like disadvantages, penalties, and punishments, by order of the Court on the representation of the arbitrator or arbitrators or umpire, as they would incur for the same offences in suits tried before the Court.

Extension of time for making award.

318. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Court may from time to time enlarge the period for the delivery of the award, if it shall think proper. In any case in which an umpire shall have been appointed, it shall be lawful for him to enter on the reference in lieu of the arbitrators, if they shall have allowed their time or their extended time to expire without making an award, or shall have delivered to the Court or to the umpire a notice in writing stating, that they cannot agree. Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allowed by the Court, unless on proof that the delay in completing the award arose from corruption or misconduct of the arbitrator or arbitrators or umpire, or unless the award shall have been made after the issue of an order by the Court superseding the arbitration and recalling the suit.

In case of death, incapacity, or refusal to act of arbitrators or umpire, Court may appoint others in stead.

319. If, in any case of reference to arbitration by an order of Court, the arbitrator or arbitrators or umpire shall die, or refuse or become incapable to act, it shall be lawful for the Court to appoint a new arbitrator or arbitrators or umpire, in the place of the person or persons so dying, or refusing or becoming incapable to act. Where the arbitrators are empowered by the terms of the order of reference to appoint an umpire and do not appoint an umpire, any of the parties may serve the arbitrators with a written notice to appoint an umpire; and if within seven days after such notice shall have been served, no umpire be appointed, it shall be lawful for the Court, upon the application of the party having served such notice as aforesaid, and upon

proof to its satisfaction of such notice having been served, to appoint an umpire. In any case of appointment under this Section, the arbitrator or arbitrators, or umpire so appointed, shall have the like power to act in the reference, as if their name or names had been inserted in the original order of reference.

Award how to be submitted to Court.

320. When an award in a suit shall be made either by the arbitrator or arbitrators, or by the umpire, it shall be submitted to the Court under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and exhibits in the suit.

Arbitrator may state special case.

321. It shall be lawful for the arbitrator or arbitrators or umpire, upon any reference, by an order of Court if he or they shall think fit, and if it is not provided to the contrary, to state his or their award as to the whole or any part thereof in the form of a special case for the opinion of the Court.

Court may, on application, modify or correct an award in certain cases.

322. The Court may on the application of either party modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision. The Court may also on such application make such order as it thinks just respecting the costs of the arbitration, if any question arise respecting such costs and the award contain no sufficient provision concerning them.

And make order respecting the costs of arbitration.

In what cases Court may remit the award or any of the matters referred to arbitration, for reconsideration.

323. In any of the following cases the Court shall have power to remit the award or any of the matters referred to arbitration to the re-consideration of the same arbitrator or arbitrators or umpire, upon such terms as it may think proper (that is to say)—

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration.

If the award is so indefinite as to be incapable of execution.

If an objection to the legality of the award is apparent upon the face of the award.

Award not to be set aside except on ground of corruption.

Application to set aside the award.

324. No award shall be liable to be set aside except on the ground of corruption or misconduct of the arbitrators or umpire. Any application to set aside an award shall be made within ten days after the same has been submitted to the Court.

Judgment to be according to the award.

325. If the Court shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in manner aforesaid, and if no application shall have been made to set aside the award, or if the Court shall have refused such application, the Court shall proceed to pass judgment according to the award or according to its own opinion on the special case if the award shall have been submitted to in the form of a special case; and upon the judgment which shall be so given decree shall follow and be carried into execution in the same manner as other decrees of the Court. In every case in which judgment shall be given according to the award, the judgment shall be final.

Agreement of parties to refer to arbitration may be filed in the Court.

326. When any persons shall by an instrument in writing agree that any differences between them or any of them shall be referred to the arbitration of any person or persons named in the agreement or to be appointed by any Court having jurisdiction in the matter to which it relates, application may be made by the parties thereto or any of them that the agreement be filed in such Court. On such application being made, the Court shall direct such notice to be given to any of the parties to the agreement, other than the applicants, as it may think necessary, requiring such parties to show cause, within a time to be specified, why the agreement should not be filed. The application shall be written on a stamp paper of one-fourth of the value prescribed for plaints in suits, and shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant, if the application have been presented by all the parties or, if otherwise, between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the agreement, the agreement shall be filed and an order of reference to arbi-

tration shall be made thereon. The several provisions of this Chapter, so far as they are not inconsistent with the terms of any agreement so filed, shall be applicable to all proceedings under an order of reference made by the Court and to the award of arbitration and to the enforcement of such award.

Provisions of this Chapter applicable.

327. When any matter has been referred to arbitration without the intervention of any Court of Justice, and an award has been made, any person interested in the award may within six months from the date of the award make application to the Court having jurisdiction in the matter to which the award relates, that the award be filed in Court. The Court shall direct notice to be given to the parties to the arbitration other than the applicant, requiring such parties to show cause, within a time to be specified, why the award should not be filed. The application shall be written on the stamp paper required for petitions to the Court where a stamp is required for petitions by any law for the time being in force, and shall be numbered and registered as a suit between the applicant as plaintiff and the other parties as defendants. If no sufficient cause be shown against the award, the award shall be filed and may be enforced as an award made under the provisions of this Chapter.

Filing in Court an award when the matter was referred to arbitration without intervention of Court.

Enforcement of such award.

CHAPTER VII.

OF PROCEEDINGS ON AGREEMENT OF PARTIES.

How questions may be raised for the decision of a Civil Court by any Persons Interested.

328. Parties interested or claiming to be interested in the decision of any question of fact or law, may enter into an agreement, which shall be subject to same stamp duty as prescribed for plaints in suits, that upon the finding of a Court in the affirmative or negative of such question of fact or law, a sum of money fixed by the parties, or to be determined by the Court, shall be paid by one of the parties to the other of them; or that some property, movable or immovable, specified in the agreement, shall be delivered by one of the parties to the

Questions of fact, or of law or equity, may be raised by agreement for the decision of any Court having jurisdiction.

other of them; or that one or more of the parties shall do or perform some particular legal act or shall refrain from doing or performing some particular act specified in the agreement. Where the agreement is for the delivery of some property movable or immovable, or for the doing or performing, or the refraining to do or perform any particular act, the estimated value of the property to be delivered, or to which the act specified may have reference, shall be stated in the agreement.

Agreement to be filed and numbered as a suit.

329. The agreement may be filed in any Court having jurisdiction in the matter, and, when so filed, shall be numbered and registered as a suit between some or one of the parties interested or claiming to be interested as plaintiffs or plaintiff, and the others or other of them as defendants or defendant; and notice shall be given to all the parties to the agreement, other than the party or parties by whom it was presented.

Parties to be subject to the Court's jurisdiction.

330. After the agreement shall have been filed, all the parties to it shall be subject to the jurisdiction of the Court, and shall be bound by the statements contained therein.

Hearing and disposal of the case.

331. The case shall be set down for hearing as an ordinary suit; and if the Court shall be satisfied, after an examination of the parties or their pleaders, or taking such evidence as it may deem proper, that the agreement was duly executed by the parties, and that they have a *bonâ fide* interest in the question of fact or law stated therein and that the same is fit to be tried or decided, it shall proceed to record and try, or hear the same, and deliver its finding or opinion thereon, in the same way as in an ordinary suit; and shall, upon its finding or deciding upon the question of fact or law, give judgment for the sum fixed by the parties, or so ascertained as aforesaid, or otherwise, according to the terms of the agreement, and upon the judgment which shall be so given, decree shall follow and may be executed in the same way as if the judgment had been pronounced in a contested suit.

CHAPTER VIII.

Of Appeals.

332. Except when otherwise expressly provided in this or

Appeal to lie from all decrees except when expressly prohibited.

any other Regulation or Act for the time being in force, an appeal shall lie from the decrees of the Courts of original jurisdiction to the Courts authorized to hear appeals from the decisions of those Courts. If the appeal lie to the Sudder Court it shall be heard and determined by a Court consisting of three or more Judges of that Court.

Appeal to Sudder Court to be heard by three or more Judges.

How Appeals are to be preferred.

333. Appeals shall be made in the form of a memorandum which shall be presented in the Appellate Court within the period hereinafter specified, unless the appellant shall show sufficient cause to the satisfaction of the Appellate Court for not having presented it within such limited period; that is to say, within thirty days if the appeal be to a District Court, and within ninety days if the appeal be to the Sudder Court. The days shall be reckoned from and exclusive of the day on which judgment was pronounced, and also exclusive of such time as may be requisite for obtaining a copy of the decree appealed against.

Appeals to be preferred by a memorandum to be presented to the Appellate Court within specified time.

334. The memorandum of appeal shall set forth concisely, and under distinct heads, the grounds of objection to the decision appealed against, without any argument or narrative, and such grounds shall be numbered consecutively. The appellant shall not without the leave of the Court urge or be heard in support of any other ground of objection, but the Court in deciding the appeal shall not be confined to the grounds set forth by the appellant.

What the memorandum is to contain.

335. The memorandum of appeal shall be in the following form, or to the following effect, and shall be accompanied by a copy of the decree appealed against—

Form of memorandum.

Memorandum of Appeal.

(Name, &c. as in Register.) Plaintiff.

(Name, &c. as in Register.) Defendant.

[Name of Appellant] Plaintiff [or Defendant] above-named appeals to the Suder Court at [or Zillah Court at as the case may be], against the decree of

in the above suit, dated the day of for the following reasons, namely, [*here state the reasons.*]

If memorandum be not in form or duly presented.

336. If the memorandum be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. If the memorandum be not presented within the prescribed period and no sufficient cause be shown for the delay, the appeal shall be rejected.

One of several plaintiffs or defendants may appeal and obtain a reversal of the whole decree if it proceed on a ground common to all.

337. If there be two or more plaintiffs or two or more defendants in a suit, and the decision of the Lower Court proceed on any ground common to all, any one of the plaintiffs or defendants may appeal against the whole decree, and the Appellate Court may reverse or modify the decree in favor of all the plaintiffs or defendants.

Of staying and executing Decrees under Appeal.

Execution of decree not to be stayed by appeal; but if sufficient cause be shown, execution may be stayed.

338. Execution of a decree shall not be stayed by reason only of an appeal having been preferred against such decree; but the Appellate Court may for sufficient cause shown, order that execution be stayed. If application for execution be made before the time allowed for appeal has expired, and the Lower Court has not received intimation of an appeal having been preferred, the Lower Court, if sufficient cause be shown, may stay the execution. Before making an order to stay execution, the Court making the order shall require security to be given by the party against whom the decree was passed for the due performance of the decree or order of the Appellate Court.

Court, before making order to stay execution, shall require security for due performance of decree or order of Appellate Court.

Court making an order for execution of a decree against which an appeal has been preferred, may require security for restitution of property, &c.

339. When an order is made for the execution of a decree against which an appeal has been preferred, it shall be lawful for the Court which pronounced the decree to require security to be given for the restitution of any property which may be taken in execution of the decree or of the value thereof, and for the due performance of the decree or order of the Appellate Court.

340. In suits instituted or defended under the authority and at the expense of Government, no such security as is mentioned in the last two preceding Sections shall in any case be required from Government or from any public Officer.

No such security to be required from Government or any Public Officer.

Of Procedure in Appeals from Decrees.

341. When a memorandum of appeal is presented in the prescribed form and within the time allowed, the Appellate Court, or the proper Officer of that Court, shall endorse thereon the date of presentment, and shall register the appeal in a book to be kept for the purpose, and called the Register of Appeals. Such Register shall be in the form contained in the Schedule (C) hereunto annexed.

How the appeal is to be entered.

Form of the Register.

342. It shall be in the discretion of the Appellate Court to demand security for costs from the appellant or not, as it shall see fit, before the respondent is called upon to appear and answer. Provided that the Court shall demand such security in all cases in which the appellant is residing out of the British Territories in India and is not possessed of any land or other immovable property within those territories independent of the property to which the appeal relates; and in the event of such security not being furnished at the time of presenting the memorandum of appeal or within such time as the Court shall order, the Court shall reject the appeal.

Appellate Court may, at its discretion, require security for costs from Appellant.

343. When the memorandum of appeal has been registered, the Appellate Court shall send intimation thereof to the Lower Court. If the appeal be from a Court the records of which are not deposited in the Appellate Court, the Lower Court shall, upon the receipt of the intimation, transmit to the Appellate Court with all practicable despatch all material papers in the suit, or such papers as may be specially called for by the Appellate Court. Either party may give notice in writing to the Lower Court specifying any exhibits of which he requires copies to be made and deposited in the Lower Court, and copies of such exhibits shall be prepar-

Appellate Court to send intimation to Lower Court of appeal being registered.

Lower Court to transmit papers to Appellate Court.

Either party may give notice of exhibits of which he requires to be made and deposited in the Lower Court.

ed at the expense of the party giving the notice and shall be deposited in the Lower Court.

Day for hearing the appeal, how to be fixed.

344. A day shall be fixed by the Appellate Court for the hearing of the appeal. The day shall be so fixed, with reference to the place of residence of the respondent and the time necessary for the service of the notice of appeal, as to allow the respondent a sufficient time to enable him to appear in person or by a pleader on such day.

Publication and service of notice of the day fixed for hearing the appeal.

345. Notice of the day which has been fixed for hearing the appeal shall be affixed in the Appellate Court, and a like notice shall be sent by the Appellate Court to the Lower Court and shall be served on the respondent in the same way as hereinbefore provided for the service of a summons to a defendant to appear and answer, and all rules applicable to such summons and to proceedings with reference to the service thereof, shall apply to the service of such notice. The notice to the respondent shall contain an intimation that, if he does not appear in the Appellate Court on the day so fixed for the hearing of the appeal, the case will be heard and decided *ex parte* in his absence. Provided that, if the respondent has appointed a pleader to appear in his behalf in the Appellate Court, the service of the notice on such pleader shall be sufficient.

Form of notice.

Consequence of non-appearance.

346. If on the day fixed for hearing the appeal or any other day subsequent thereto which the hearing of the appeal may be adjourned, the appellant shall not appear in person or by a pleader, the appeal shall be dismissed for default. If the appellant shall appear in person or by a pleader, and the respondent shall not appear in person or by a pleader, the appeal shall be heard *ex parte* in his absence.

Re-admission of appeals dismissed for default of prosecution.

347. If an appeal be dismissed for default of prosecution, the appellant may, within thirty days from the date of the dismissal, apply to the Appellate Court for the re-admission of the appeal; and if it shall be proved to the satisfaction of the Court that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Court may re-admit the appeal.

Respondent may object to decision of Lower Court in the same manner as if he had preferred a separate appeal.

348. Upon the hearing of the appeal, the respondent may take any objection to the decision of the Lower Court which he might have taken if he had preferred a separate appeal from such decision.

The Appellate Court how to give Judgment.

349. The Appellate Court, after hearing the appeal, shall proceed to give its judgment in the manner hereinbefore prescribed for giving judgment in Courts of original jurisdiction.

No decision to be reversed for irregularity.

350. The judgment may be for confirming or reversing or modifying the decree of the Lower Court. But no decree shall be reversed or modified nor shall any case be remanded to the Lower Court on account of any error, defect, or irregularity either in the decision or in any interlocutory order passed in the suit not affecting the merits of the case or the jurisdiction of the Court.

When a case may be remanded by Appellate Court.

351. If the Lower Court shall have disposed of the case upon any preliminary point so as to exclude any evidence of fact which shall appear to the Appellate Court essential to the rights of the parties, and the decree of the Lower Court upon such preliminary point shall be reversed by the decree in appeal, the Appellate Court may, if it think right, remand the case, together with a copy of the decree in appeal, to the Lower Court, with directions to restore the suit to its original number in the Register and proceed to investigate the merits of the case, and pass a decree therein.

Power to remand limited as above.

352. It shall not be competent to the Appellate Court to remand a case for a second decision by the Lower Court, except as provided in the last preceding Section.

When the evidence is sufficient, the Appellate Court must determine the case though the Lower Court has decided on other grounds.

353. When the evidence upon the record of the Lower Court is sufficient to enable the Appellate Court to pronounce a satisfactory judgment, the appellate Court shall finally determine the case, notwithstanding that the judgment of the Lower Court has proceeding wholly upon some other ground.

354. If the Lower Court shall have omitted to raise or try any issue or to determine any question of fact which shall appear to the Appellate Court essential to the right determination of the suit upon the merits, and the evidence upon the record is not sufficient to enable the Appellate Court to determine such issue or question of fact, the Appellate Court may frame an issue or issues for trial by the Lower Court and may refer the same to the Lower Court for trial. Thereupon the Lower Court shall proceed to try such issue or issues and shall return to the Appellate Court its finding thereon together with the evidence. Such finding and evidence shall become part of the record in the suit; and either party may, within a time to be fixed by the Appellate Court, file a memorandum of any objection to the finding; and after the expiration of the period so fixed, the Appellate Court shall proceed to determine the appeal.

Trial of issues by Lower Court on reference from Appellate Court.

355. It shall not be competent to the parties in an appeal to produce additional evidence in the Appellate Court, whether of exhibits or witnesses; but if it appear that the Lower Court refused to admit competent evidence, or if the Appellate Court require any exhibits to be produced or witnesses examined to enable it to pronounce a satisfactory judgment, or for any other substantial cause, the Appellate Court may allow additional exhibits to be received and any necessary witnesses to be examined, whether such witnesses shall have been previously examined in the Court below or not; provided that, whenever additional evidence is admitted by an Appellate Court, the reasons for the admission shall be recorded on the proceedings of such Court.

When the Appellate Court may call for fresh evidence.

356. Whenever additional evidence is permitted to be received, it shall be competent to the Appellate Court to take such evidence before itself, or to require the Lower or any other Court or to empower any person to take such evidence, and to transmit the evidence so taken to the Appellate Court. It shall also be competent to the Appellate Court to prescribe the manner in which such evidence shall be taken.

How additional evidence is to be taken

357. In all cases where additional evidence is permitted to

Points to be defined.

be taken, the Appellate Court shall define the point or points to which the evidence is to be confined, and record the same on its proceedings.

358. The Appellate Court shall have all the like powers in regard to the granting of time, adjourning the hearing of the suit, examining the parties or their pleaders, and awarding costs, or otherwise, as are hereinbefore contained in regard to Courts of original jurisdiction.

Powers of Appellate Court

359. The judgment of the Appellate Court shall be pronounced in open Court. It shall contain the point or points for determination, the decision thereupon, and the reasons for the decision, and shall be dated and signed by the Judge or by the Judges concurring therein at the time of pronouncing it. The judgment shall be written in the English language; but if the Judge shall not be able to write an intelligible judgment in that language, the judgment shall be written in the vernacular language of the Judge. When the language in which the judgment is written is not the language in ordinary use in proceedings before the Court, the judgment shall be translated into such language, and the translation shall be signed by the Judge or Judges. Any Judge dissenting from the judgment of the Court shall state his opinion in writing, which shall form part of the record.

Judgment of the Appellate Court. In what language it is to be written.

Dissent to be recorded.

360. The decree of the Appellate Court shall bear date the day on which the judgment was passed. It shall contain the number of the suit, the names and description of the parties appellant and respondent, and the memorandum of appeal, and shall specify clearly the relief granted or other determination of the appeal. It shall also state the amount of costs incurred in the appeal, and by what parties and in what proportions such costs and the costs in the original suit are to be paid. The decree shall be signed by the Judge or Judges who passed it and shall be sealed with the seal of the Court. If there be a difference of opinion among the Judges of the Court, it shall not be necessary for any Judge dissenting from the judgment of the Court to sign the decree, but the opinion of such Judge shall be recited in the decree. Certified copies of the decree shall be furnished to the parties in the same manner

What the decree is to contain.

as hereinbefore provided in regard to the decrees of Courts of original jurisdiction.

A certified copy of the decree to be transmitted to the Lower Court.

361. A copy of the decree or other order disposing of the appeal, certified by the Appellate Court or the proper Officer of such Court, and sealed with the seal of the Court, shall be transmitted to the Court which passed the first decree in the suit appealed from, and shall be filed with the original proceedings in the suit, and an entry of the judgment of the Appellate Court shall be made in the original Register of the suit.

How to be executed.

362. Application for execution of the decree of an Appellate Court shall be made to the Court which passed the first decree in the suit, and shall be executed by that Court, in the manner and according to the rules hereinbefore contained for the execution of original decrees.

Appeals from Orders.

No appeal from order passed before decree, but error or defect therein may be set forth as an objection if the decree be appealed against.

363. No appeal shall lie from any order passed in the course of a suit and relating thereto prior to decree; but if the decree be appealed against, any error, defect, or irregularity in any such order affecting the merits of the case or the jurisdiction of the Court, may be set forth as a ground of objection in the memorandum of appeal.

No appeal from order passed after decree and relating to the execution thereof except as provided.

364. No appeal shall lie from any order passed after decree and relating to the execution thereof except as is hereinbefore expressly provided.

Appeal from orders as to fines or imprisonment.

365. All orders as to fines or the levying thereof or as to imprisonment under this Act (except when the imprisonment is in execution of a decree) shall be subject to appeal.

Procedure in appeals from orders.

366. When an appeal from any order is allowed, the period for preferring the appeal and the procedure thereon shall be in all respects the same as in an appeal from a decree.

CHAPTER IX.

OF APPEALS IN FORMA PAUPERIS.

Who may appeal as pauper.

367. Any party to a suit who may be unable to pay for the stamps required for the prosecution of an appeal from the decision passed therein, may be allowed to appeal as a pauper from such decision subject to all the rules contained in the last preceding Chapter and in Chapter V. in so far as they are applicable.

Application to whom and when to be presented.

368. The application to be allowed to appeal *in formâ pauperis* shall be written on a stamp paper of the value of one Rupee if the appeal lie to the District Court, and on a stamp paper of the value of two Rupees if the appeal lie to the Sudder Court, and shall be presented in the Appellate Court within the period allowed for the presentation of a memorandum of appeal.

Form of application.

369. The Application shall contain the particulars required to be set forth in the memorandum of appeal and shall be drawn up in the like manner. It shall have annexed to it a Schedule of any movable or immovable property belonging to the applicant with the estimated value thereof, and shall also be accompanied by copies of the judgment and decree from which the appeal is made.

Procedure.

370. If the Appellate Court, upon a perusal of the application and of the judgment and decree of the Court below, shall see no reason to think that the decision of that Court is contrary to law or to some usage having the force of law or is otherwise erroneous or unjust, it shall reject the application. If the application be not rejected upon any of the grounds abovementioned, enquiry shall be made into the alleged pauperism of the applicant, and such enquiry may be conducted either by the Appellate Court or by the Court from whose decision the appeal is made under the orders of the Appellate Court. Provided that, if the applicant was allowed to sue *in formâ pauperis* in the Court below, no further enquiry in respect of his pauperism shall be necessary, unless the Appellate Court shall see special cause to direct such enquiry.

Effect of order by Appellate Court.

371. The order passed by the Appellate Court on an application to be allowed to appeal *in formâ pauperis*, whether for the admission or rejection

of the application, shall be final; but, if the application be rejected, the Appellate Court may, if it think proper, allow the applicant a reasonable time for preferring an appeal on a stamp of the value prescribed for appeals from decrees.

CHAPTER X.

Of Special Appeals.

Special appeals allowed on what grounds

372. Unless otherwise provided by any law for the time being in force, a special appeal shall lie to the Sudder Court from all decisions passed in regular appeal by the Courts subordinate to the Sudder Court, on the ground of the decision being contrary to some law or usage having the force of law, or of a substantial error or defect in law in the procedure or investigation of the case which may have produced error or defect in the decision of the case upon the merits, and on no other ground.

Application to be presented to the Sudder Court.

373. The application for the admission of a special appeal shall be presented in the Sudder Court within the period prescribed for the presentation of a memorandum of appeal, and shall be accompanied by copies of the judgments and decrees of the Lower Appellate Court and of the Court of first instance. The application shall be written on a stamp paper of the value prescribed for regular appeals; but if the applicant be unable to pay for the stamps required for the prosecution of the appeal, the Sudder Court may admit him to appeal as a pauper, subject to all the rules contained in Chapter IX. in respect to appeals from decrees *in formâ pauperis* in so far as the same may be applicable.

Form of application.

374. The application shall set forth concisely the grounds of objection to the decision appealed against without argument or narrative, and such grounds shall be numbered consecutively. The applicant shall not, without the leave of the Court, be heard in support of any other ground of objection; but the determination of the Court may be upon any ground on which a special appeal would lie.

Application how to be dealt with.

375. If the application be not drawn up in the manner hereinbefore prescribed, the Court may reject it or may return it to the party for the purpose of being corrected. When the application is correctly drawn up,

it shall be registered in a book to be kept for that purpose, which shall be in the form contained in the Schedule D. hereunto annexed and the case shall proceed in all other respects as a regular appeal, and shall be subject to all the rules hereinbefore provided for such appeals so far as the same may be applicable.

CHAPTER XI.

REVIEW OF JUDGMENT.

Review of judgment.

376. Any person considering himself aggrieved by a decree of a Court of original jurisdiction, from which no appeal shall have been preferred to a Superior Court—or by a decree of a District Court in appeal, from which no special appeal shall have been admitted by the Sudder Court—or by a decree of the Sudder Court from which either no appeal may have been preferred to Her Majesty in Council, or an appeal having been preferred, no proceedings in the suit have been transmitted to Her Majesty in Council—and who from the discovery of new matter or evidence which was not within his knowledge, or could not be adduced by him at the time when such decree was passed, or from any other good and sufficient reason, may be desirous of obtaining a review of the judgment passed against him—may apply for a review of judgment by the Court which passed the decree.

On discovery of new evidence, &c.

Within what time and on what paper the application should be made.

377. The application shall be made within ninety days from the date of the decree unless the party preferring the same shall be able to show just and reasonable cause, to the satisfaction of the Court, for not having preferred such application within the limited period. If the application be made within the period above-mentioned, it shall be written on the stamp paper prescribed for petitions to the Court where a stamp is required; but if made after the expiration of that period, it shall be written on the stamp paper prescribed for plaints.

The order of the Court for granting or refusing the review is final.

378. If the Court shall be of opinion that there are not any sufficient grounds for a review, it shall reject the application, but if it shall be of opinion that the review desired is necessary to correct an evident error or omission, or is otherwise requisite for the ends of justice, the Court shall grant the review, and its

order in either case, whether for rejecting the application or granting the review, shall be final. Provided that no review of judgment shall be granted without previous notice to the opposite party to enable him to appear and be heard in support of the decree of which a review is solicited.

Proviso.

379. If the Court to which the application for a review of its judgment has been presented by a Court consisting two or more Judges, whenever the Judge or Judges who may have passed the decree, or if the decree have been passed by two or more Judges, when any of such Judges shall continue attached to the Court at the time when the application for a review is presented, and shall not be precluded by absence or other cause, for a period of six months after the application, from considering the Judgment to which the application refers, it shall not be competent to any other Judge or Judges of the same Court to enter upon a consideration of the merits of the application, and record an order or opinion thereon.

Application for a review in the Sudder Court must be made to the Judge or Judges that passed the decree.

380. When an application for a review of judgment is granted, a note thereof shall be made in the Register of Suits or appeals (as the case may be), and the Court shall give such order in regard to the re-hearing of the suit as it may deem proper in the circumstances of the case.

Procedure on application for a review being granted.

CHAPTER XII.

MISCELLANEOUS.

381. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of the Subordinate Civil Courts, and also to frame forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and for keeping all books, entries, and accounts to be kept by the Officers, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force.

Sudder Court empowered to make rules of practice, &c., for the Subordinate Civil Courts.

Provided such rules are not inconsistent with this or any other law.

382. Except so far as relates to the examination of witnesses under Commission and to the execution of decrees out of the jurisdiction of the Courts by which they were passed, this Act shall not extend to any suit instituted in any Court of Judicature established by Royal Charter or in any Court for the more easy recovery of small debts and demands in Calcutta, Madras, and Bombay.

Act not to extend, except in certain cases, to Supreme and Presidency Small Cause Courts.

383. Nothing in this Act shall be held to alter or affect the jurisdiction or procedure in Civil cases of Village Moonsiffs or Village or District Punchayets under the provisions of the Madras Code; or the jurisdiction or procedure of Military Courts of Request; or the jurisdiction or procedure of a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of small suits in Military bazars at Cantonments and Stations occupied by the Troops of those Presidencies respectively; or by Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

Saving of jurisdiction and procedure of Village Moonsiffs and Village or District Punchayets in Madras—

of Military Courts of Request—

of single Officers appointed to try small suits in Madras and Bombay.

And of Military Punchayets in Madras.

384. Nothing in this Act shall be held to affect the jurisdiction exercised by certain Jagheerdars and other authorities invested with powers under the provisions of Regulation XIII. 1830 of the Bombay Code *(for vesting certain Jagheerdars, Surinjameedars, and Inamdars with the power of deciding suits within the boundaries of their respective estates)* and Act XV. of 1840 *(for extending Regulations XV.* 1827 *and XIII.* 1830 *of the Bombay Code to the Agents of Foreign Sovereigns)*, or their procedure in the exercise of such jurisdiction; or to affect suits instituted under Regulation XI. 1816 of the Bengal Code *(for receiving, trying, and deciding claims to the right of inheritance or succession in certain Tributary estates in Zillah Cuttack)*, or cases of the nature defined in Regulation XXIX. 1827 *(for bringing under the operation of the Regulations the Bombay Territories in the Dekkan and Khandesh)*, Regulation VII. 1830 *(for bringing under the operation of the Regulations the Territories comprised in the*

Saving of certain special or local Laws.

Southern Mahratta Country), Regulations I. and XVI. 1831 of the Bombay Code *(for extending the jurisdiction of the Agent of Government in the Dekkan and Khandesh and of the Political Agent in the Southern Mahratta Country over suits in which certain privileged persons are concerned)*, Act XIX. of 1835 *(relating to the jurisdiction and authority of the Assistant to the Agent for Sirdars in the Dekkan)*, and Act XIII. of 1842 *(to enable the holders of revenue which has been alienated to them by the state to collect that revenue within the Presidency of Bombay)*, except that such suits and cases and the regular and special appeals to the Civil Courts allowed therein, shall be received, heard, and determined under the rules laid down in this Act, unless where those rules are inconsistent with any specific provisions contained in the Regulations and Acts above quoted.

Act not to take effect in places not subject to the general Regulations until extended thereto.

385. This Act shall not take effect in any part of the territories not subject to the general Regulations of Bengal, Madras, and Bombay, until the same shall be extended thereto by the Governor General of India in Council or by the Local Government to which such territory is subordinate, and notified in the *Gazette*.

Interpretation.

386. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say):—

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

"District."

The local jurisdiction of a Principal Civil Court of original jurisdiction shall be deemed a District for the purposes of this Act; and the words "District Court" shall mean such Court.

"District Court."

"Sudder Court."

In any part of the British territories in India to which this Act may be extended under the provisions of Section 385, the expression "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in such part of the said territories.

387. This Act shall come into operation in the Presidency of

Commencement of operation of Act.

Bengal from the 1st day of July 1859 and in the Presidencies of Madras and Bombay from the 1st day of January 1860 or from such earlier day as the Local Government in those Presidencies respectively shall fix and shall publicly notify in the Gazette of the Presidency three months at least before the date so fixed. But if in any suit pending at the time when this Act shall come into operation it shall appear to the Court that the application of any provision of this Act would deprive any party to the suit of any right in reference to the procedure of the suit, whether of appeal or otherwise, which but for the passing of this Act would have belonged to him, the Court shall proceed according to the law in force before this Act takes effect.

Pending suits.

388. From and after the time when this Act shall come into operation in any part of the British territories in India, the procedure of the Civil Courts in such part of the said territories shall be regulated by this Act, and except as otherwise provided by this Act, by no other Law or Regulation.

Where Act comes into operation, procedure of Civil Courts to be regulated by it only.

SCHEDULE A. referred to in the foregoing scheme of Procedure.

COURT of the of holden at
REGISTER OF CIVIL SUITS in the year 18 .

Date of presentation of plaint.	No. of Suit.	Plaintiff.			Defendant.			Claim.			Appearance.			Judgment.			Appeal.		Execution.					Return of Execution.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Particulars.	Amount or value.	When the Cause of Action accrued.	Day for Parties to appear.	Plaintiff.	Defendant.	Date.	For whom.	For what, or Amount.	Date of appeal	Judgment in appeal.	Date of application.	Date of Order.	Against whom.	For what, and Amount if Money.	Amount of Costs.	Amount paid into Court.	Arrested.	Minute of other Return than Payment or Arrest, and Date of every Return.

SCHEDULE B.
No. of Suit.

In the Court of at

Plaintiff.
Defendant.

(Name, description, and address.)

Whereas [*here enter the name, description, and address of the Plaintiff*] has instituted a suit in this Court against you [*here state the particulars of the claim as in the Register*]: you are hereby summoned to appear in this Court in person on the day of at in the forenoon [*if not specially required to appear in person, state—"in person or by a pleader of the Court duly instructed and able to answer all material questions relating to the suit, or who shall be accompanied by some other person able to answer all such questions"*] to answer the above-named plaintiff. [*If the summons be for the final disposal of the suit, this further direction shall be added here; "and as the day fixed for your appearance is appointed for the final disposal of the suit, you must be prepared to produce all your witnesses on that day"*]; and you are hereby required to take notice that, in default of your appearance on the day before mentioned, the suit wil be heard and determined in your absence; and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and any document on which you intend to rely in support of your defence.

SCHEDULE C. to the foregoing scheme of Procedure.

COURT at

REGISTER OF APPEALS from DECREES in the year 18

Date of Memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode	Of what Court.	No. of Original Suit.	Particulars.	Amount or Value	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

SCHEDULE D. to the foregoing scheme of Procedure.

SUDDER COURT at

REGISTER OF SPECIAL APPEALS.

Date of Memorandum.	No. of Appeal.	APPELLANT.			RESPONDENT.			DECREE APPEALED FROM.				APPEARANCE.			JUDGMENT.		
		Name.	Description.	Place of abode.	Name.	Description.	Place of abode.	Of what Court.	No. of Original Suit and of Appeal.	Particulars.	Amount or Value.	Day for Parties to appear.	Appellant.	Respondent.	Date.	Confirmed, reversed, or altered.	For what, or Amount.

FORFEITED PROPERTY.

ACT No. IX. OF 1859.

[*Passed on the 30th April*, 1859.

1, 2. Empowers the Government to appoint Court of Special Commissioners for trial of claims to property seized as forfeited &c. (2) Court, to consist of not less than 3 Commissioners.

3, 4. Establishment of such Court to be notified to the public, and all other Courts to be thereupon suspended; and (4) all matters cognizable under this Act to be transferred from old Court to Commissioner's.

5. Government to appoint places where Court shall sit.

6, 7, 8. Prescribes the form of the plaint; and (7) its mode of verification; and (8) its mode of presentation.

9, 10. Prescribes procedure before hearing; and (10) on hearing.

11. Prescribes mode of taking the examination of witnesses.

12. Extends to proceedings under this Act the law respecting delivery of the decision.

13. Denies all right of appeal.

14, 15. Directs that decrees of Courts under this Act shall be executed by ordinary Civil Courts, &c.; in which (15) records of former are to be deposited.

16, 17. Conviction of offender to be conclusive as to forfeiture of property; and (17) validity of conviction not to be questioned for apparent want of Jurisdiction to convict.

18. Attachment and seizure of property without conviction to bind the forfeiture of the property, unless supposed offender shall surrender within a year and be acquitted.

19. Limits power of Judge &c. acting under Acts XIV. and XVI. 1857.

20. Act not to affect the right of parties not charged with offences for which property is forfeitable on conviction.

An Act to provide for the adiudication of claims to property seized as forfeited.

Preamble.

Whereas it is expedient to make provision for the adjudication of claims to property seized as forfeited, with a view to the speedy determination of the same; and whereas it is also expedient to remove doubts concerning the powers of Officers or other persons to whom Commissions may have been issued for the trial of heinous offences in certain districts and concerning the validity of convictions and adjudications of forfeiture made by such Officers or other persons; It is enacted as follows:—

Courts of Special Commission to be established.

I. It shall be lawful for the Executive Governments of the Lower and North-Western Provinces of the Presidency of Bengal, to establish within any part of the Territories subject to their respective Governments, Courts of Special Commission for the trial and determination of claims to property seized as forfeited, and to assign, from time to time, such local jurisdiction to the Courts so established as may appear proper. Provided that no additional expense shall be incurred by the establishment of any such Court without the previous sanction of the Governor General of India in Council.

Proviso.

Court to consist of three Commissioners.

II. Every Court established under this Act shall consist of not less than three Commissioners who shall sit together for the trial and determination of claims; but any one or more of them shall have power to make all such orders as may be necessary for preparing the cases that may be instituted for trial and decision.

Notification of establishment of Court in any District.

III. Whenever any Court shall be established under the provisions of this Act, with jurisdiction in any district or districts, notice thereof shall be given by a written proclamation, of which copies shall be affixed in the several Courts and in the offices of the several Collectors and magistrates of such district or districts; and the powers heretofore vested in the Courts of such district or districts in respect of all cases cognizable by the Courts established under this Act, shall be suspended until such Courts shall be informed, by an order under the signature of the Secretary to Government, that the local jurisdiction of such Court of Special Commission has ceased, of which notice shall be given by proclamation in the manner aforesaid.

Transfer of pending suits.

IV. Any case pending before any Court sitting as a Court of original jurisdiction at the time of the passing of this Act, in respect of a matter made cognizable by Courts established under its provisions, shall be transferred to the Court of Special Commission, within the limits of whose jurisdiction the property in dispute is situate, and such Court shall summon the defendant and proceed to dispose of the case in the same manner as if it had been instituted before it.

V. The Courts established under this Act shall be held at

Court where to be held.

such place within the limits of their respective jurisdiction, as shall from time to time be appointed by the local Government.

VI. The plaint in suits instituted under this Act shall be written on the stamp paper prescribed for petitions of plaint in regular suits, and shall contain the following particulars, namely.

Form of plaint.

The name, description, and place of abode of the plaintiff, the relief sought for, the subject of the claim, and the cause of action; and if the suit be brought against a defendant other than the Government or some Officer on the part of Government, the name, description, and place of abode of such defendant.

VII. The plaint shall be verified in the manner prescribed for the verification of plaints in Section XXVII. Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*); and if the plaint contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the provisions of the law for the time being in force for the punishment of giving or fabricating false evidence.

Verification of plaint.

Punishment for false averment in plaint.

VIII. The plaint may be presented by the plaintiff in person or by his duly constituted representative, either in the principal Civil Court of original jurisdiction in the district in which the property or any part of the property in dispute is situate, or in the Court of Special Commission having jurisdiction over the claim under this Act. If the plaint be not presented in the Court of Special Commission, it shall be forwarded to such Court without delay.

Presentation of plaint.

IX. The Court shall fix a day for the appearance of the parties and for the hearing of the suit, of which due notice shall be given to the parties or their representatives, and on the day so fixed the parties shall bring their witnesses into Court, together with any documents on which they may intend to rely in support of their respective statements. If either party require the assistance

Procedure before hearing of suit.

of the Court to procure the attendance of a witness on such day he shall apply to the Court in sufficient time before the day fixed for the hearing of the suit, and the Court shall issue a subpœna requiring such witness to attend the Court on that day. It shall be competent to the Court to require the personal attendance of the plaintiff on the day fixed for the hearing of the suit or at any subsequent stage.

Procedure on hearing.

X. On the day fixed for the hearing of the suit or as soon after as may be practicable, the Court shall proceed to examine the plaintiff or his representative (when his personal attendance is not required) and the witnesses of the parties, and upon such examination and after inspecting the documents of the parties and making any further enquiry that may appear necessary, shall proceed to pass such order in the case in respect both to the claim and to the costs of suit as it may consider just and proper.

Examination, &c. of witnesses.

XI. It shall not be necessary to take down the depositions of the witnesses in writing at length; but the Court, as the examination of each witness proceeds, shall reduce into writing the substance of what such witness deposes, and the deposition so taken shall form part of the record. In all other respects the provisions of the Regulations and Acts for procuring the attendance of witnesses and for the examination, remuneration, and punishment of witnesses in suits before the Civil Courts, shall be of equal force and effect in cases tried under this Act.

Decisions.

XII. The rules contained in Act XII. of 1843 *(concerning the time at which and the language in which the decisions of the Judges in the Courts of the East India Company are to be written)* shall be applicable to decisions passed under this Act.

No appeal.

XIII. No appeal shall lie from any decision passed under this Act, nor shall any such decision be open to revision.

Execution of decrees.

XIV. The decrees of the Courts of Special Commission established under this Act shall be enforced by the Civil Courts of the district in which the property in dispute is situate, under the rules applicable to the execution of decrees passed by those Courts.

XV. The records of cases disposed of by Courts established under this Act shall be deposited amongst the records of the principal Civil Court of original jurisdiction in the district in which the property in dispute is situate.

Records of cases where to be deposited.

XVI. Whenever any person shall have been convicted of an offence for which his property was forfeited to Government, no Court has power in any suit or proceeding relating to such property, to question the validity of the conviction.

Validity of convictions of offences involving forfeiture of property not to be questioned by any Court.

XVII. Whenever any person shall have been convicted as above by an Officer having power to try and convict, the validity of any such conviction shall not be questioned upon the ground that the record of the conviction does not show in what capacity such Officer acted, or that it represents him to have acted in a different capacity from that in which he had power to convict.

Validity of conviction not to be questioned because the record does not show in what capacity the convicting Officer acted.

XVIII. Whenever any property shall have been attached or seized without either conviction or an adjudication of forfeiture by any Officer of Government as property forfeited or liable to be forfeited to Government for an offence for which upon conviction the property of the offender would be forfeited, the validity of such attachment or seizure shall not be called in question by any Court or other authority in any suit or proceeding, unless the offender or alleged offender shall, within one year after the seizure of his property, have surrendered himself for trial and upon trial before a competent Court shall have been or shall be acquitted of the offence and shall prove to the satisfaction of the Court that he did not escape or keep out of the way for the purpose of evading justice. Nothing in this Section shall extend to persons entitled to pardon under Her Majesty's proclamation published in the Calcutta Gazette Extraordinary dated the 1st November 1858, or to any person who, having surrendered himself within the period of one year after the seizure of his property, shall be discharged by order of Government without a prosecution.

Property attached without adjudication of forfeiture.

Validity of such attachment not to be questioned unless offender surrender within one year and be acquitted, &c.

Proviso.

Release of property attached as forfeited.

XIX. No Judge or other person acting as Commissioner under the provisions of Acts XIV. and XVI. of 1857 has power to release property attached or seized as forfeited or as liable to be forfeited to Government except under the provisions of Section VIII. Act XXV. of 1857, when the offender or alleged offender shall have surrendered himself for trial and shall be tried and acquitted by such Judge or Commissioner, and shall prove that he did not escape or keep out of the way for the purpose of evading justice; and any order passed by any such Judge or Commissioner for the release of any property attached or seized as forfeited or liable to be forfeited to Government, except upon the acquittal before him of the person accused, and upon proof that he did not escape or keep out of the way for the purpose of evading justice, is hereby declared null and void.

Act not to affect the rights of parties not charged with an offence punishable by forfeiture of property.

XX. Nothing in this Act shall be held to affect the rights of parties not charged with any offence for which upon conviction the property of the offender is forfeited, in respect of any property attached or seized as forfeited or liable to be forfeited to Government; provided that no suit brought by any party in respect of such property shall be entertained unless it be instituted within the period of one year from the date of the attachment or seizure of the property to which the suit relates.

Proviso.

BENGAL.—RECOVERY OF RENTS.

ACT No. X. OF 1859.

[*Passed on the 29th April*, 1859.

1. Repeals R. 8, 1793 partially; R. 17, 1793; R. 4, 1794; R. 35, 1795; R. 45, 1795; R. 51, 1795, ss. 9 and 10; R. 7, 1790, ss. 1 to 20; R. 5, 1800 ss. 1 to 20; R. 28, 1803; R. 30, 1803, ss 9 and 10, and otherwise partially; R. 2, 1805, s. 4; R. 8, 1805, s. 19; R. 5, 1812, ss. 5 to 23; R. 19 1817, ss. 15 and 16; R. 20, 1817, s. 27; R. 8, 1819, ss. 18 and 19; R. 2, 1821, s. 4; R. 7. 1822, s. 22 and ss. 20 and following partially; R. 14, 1824; R. 8, 1831: R 9, 1833, ss. 14 and 15 partially; Act I. 1839; Act I. 1845, s. 26 partially; Act X. 1846; Act VIII. 1848.

2, 3, 4, 5 Entitles every renter of land to a pottah containing specified particulars; and (3) at the old rent if not changed from time of permanent

settlement; or (4) if not changed for past 20 years; or (5) at equitable rate if liable to be changed.

6, 7, 8. Declares that ryot has a right of occupancy if he has held for 12 years, except in specified lands; and where (7) a special tenancy exists; in which cases (8) terms to depend on agreement of the parties.

9. Ryot receiving pottah to give counterpart engagement.

10. Prohibits exaction beyond rent reserved and entitles ryot to receipt for rent paid.

11. Abolishes the power of Zemindar to compel the attendance of a ryot &c. at his cutcherry.

12. Extortion of rent by duress, to be subject to fine, besides common law liability.

13, 14. Rent of specified land of tenants not to be raised without previous notice given; and (14) tenant may contest his liability.

15, 16. Dependant Talookdar with permanent tenure at rent not changed since 1793, not liable to have his rent enhanced; and (16) if rent not changed for 20 years, it is to be presumed the rent of 1793.

17. Defines the grounds on which rent of ryot having right of occupancy may be enhanced.

18. Entitles ryot to an abatement of rent for land lost by diluvion.

19. Entitles ryot to put an end to liability for rent by giving notice in Cheit.

20, 21, 22. Arrear of rent to bear twelve per cent. interest; and (21) ryot may be ejected for arrears of rent by process of law; and (22) lease may be cancelled for same cause.

23, 24, 25. Gives the Collector jurisdiction in specified suits and complaints against ryots; and (24) in Suits by Zemindars against sureties and agents; and (25) in Suits for ejectment of cultivators.

26. Entitles Zemindar to have lands measured, when rent is payable according to measurement, &c.

27. Obliges dependant Talookdars to register transfers in the Sheristah of the Zemindar, &c.

28. Repeals partially R. 19, 1793, s. 10; R. 41, 1795, s. 10 partially; R. 31, 1803, s. 6 partially; R. 8, 1805, s. 21 partially; R. 12, 1805, s. 24 partially, and substitutes new regulations instead.

29. Applies to Surburakers and Tuhseeldars of khas lands all the above rules respecting suits by and against Zemindars.

30. All actions under this Act to be brought within one year of cause of action accruing except where other limit is fixed.

31. Suits for delivery of pottahs, &c. may be instituted at any time during tenancy.

32, 33. Suits for recovery of rents must be brought within 3 years from the end of the year in arrear: (33) and for recovery of money in hands of agent or for delivery of accounts, &c. during agency or within a year after, except in case of fraud, and then within one year after discovery thereof.

34, 35, 36, 37. Suits under this act to be commenced in Collectorate by plaint, &c. (35) which shall be presented by plaintiff or a person having a knowledge of its truth; (36) and shall be verified, &c. and (37) plaint to be on stamped paper of specified value, and no stamps to be required on filing documents, &c.

38, 39. Documents relied on as proof to be delivered with plaint; and (39) plaintiff is also entitled to order for production of documents by defendant.

40, 41, 42. Plaint for arrear of rent to contain what; and (41) plaint for ejectment, what; if otherwise drawn (42) it may be returned.

43, 44, 45, 46. Summons to be issued, if plaint be proper; (44) and to fix a day, &c. and (45) to be served how; (46) Nazirs to indorse time and mode of service.

47. Service at a distance to be made, how.

48. Costs of summons must be prepaid.

49, 50, 51. Warrant may be issued for arrest of defendant in what Suits and under what circumstances; (50) who on arrest must be brought before Collector, &c. (51) who shall try the case early, &c. and may require security, &c.

52. In case of non-arrest, defendant may be proclaimed, &c.

53. In case of arrest of defendant without reasonable causes, Collector may award compensation up to 100 rupees.

54, 55, 56, 57. Case to be struck off the file, if neither party appear, &c.; or (55) judgment be given by default against plaintiff if only defendant appears; or (56) if only plaintiff appears Collector may proceed exparte and give judgment; and (57) in case of subsequent appearance of defendant, the Collector may open the case on terms.

58—68. No appeal to lie against exparte judgment or judgment by default; but Collector may open the judgment for cause shewn; and (59) may then proceed to examine the parties; (60) on oath; and (61) any witness; and (62) documents shall be produced; and (63) a decree be made according to the evidence; or (64) under circumstances stated, case may be further adjourned; and (65) a future day be fixed for trial; when (66) the trial shall proceed in the usual manner; subject (67) to all existing rules relating to witnesses, &c.; and (68) on default of appearance of both parties, case to be struck off the file.

69. In suits instituted or defended by Naibs, &c. such persons to be subject to same provisions, &c. as parties.

70. Parties of privileged sex or rank exempted from personal attendance.

71. Suits may be conducted by agents, &c.

72. Time may be given to parties for cause shewn.

73. Collector may cause local enquiry to be made.

74, 75. Defendant may pay into Court, satisfaction for demand; plaintiff may proceed afterwards at peril of costs; and (75) not to receive interest on amount paid into Court.

76. In Suits for delivery of pottah, Collector may fix the term of tenancy but not beyond 10 years, nor for longer period than the parent term.

77. In case of rival claim by some third person, such person to be made a party.

78. In suits for ejectment of ryot, &c. unexecuted decree to be evidence.

79. Collector to give judgment in open Court in his own vernacular.

80. Under a decree for delivery of a pottah, Collector may execute a pottah, if defendant refuses to do so.

81. Under a decree for delivery of a kubooleut, the decree to be of same effect as a kubooleut if kubooleut is not delivered.

82. Magistrate in case of need to give effect to decree for possession of land.

83. Decrees for cancelment of lease, &c. to be proclaimed by beat of drum, &c.

84. Under decree against defendant in jail, Collector may order his detention in default of satisfaction.

85. Surety to deliver up judgment debtor, or liable himself to process in execution.

86. Execution may go against either property or person but not against both at same time.

87. All movable property liable to execution, but list to be furnished by judgment creditor for purpose of seizure.

88, 89. Warrant of execution to be signed by Collector, and to be in force specified time; after which (89) fresh warrant may be issued, &c.

90—92. On decrees more than a year old, notice to be given of execution; and (91) execution not to issue against representatives without notice; and (92) no execution to issue on judgments more than three years old, except in specified case.

93. Judgment debtor when taken in execution, to be brought before Collector, who may commit him to prison for period specified according to amount of decree.

94. No person to be taken in execution a second time on same judgment.

95—97. Diet money to be paid before warrant is issued; and (96) be payable monthly; and (97) to be reckoned as costs.

98, 99. Under execution against movable property, officer to make a list of property and proclaim it; and (99) sale not to be till 10 days afterwards.

100—103. If third party claimant to it appears, Collector to examine the claim; and (101) decide it; and (102) award costs on litigation: (103) and no appeal to lie from his decision, but party may try his right by Civil suit.

104. Irregularity in sale not to affect its validity.

105—107. Undertenures when transferable by custom, may be sold in execution; and (106) in case of third party claimant appearing, Collector to receive and (107) try his claim.

108. Share of joint undivided estate, &c. not to be sold till execution against movable property has failed.

109. After failure of execution against movable property in specified cases, execution may go against immovable.

110. Process in execution against immovable property to be the same as by attachment and sale.

111. If sale objected to by some third party claiming the property as his own, the Collector is to stay the sale and examine the claim.

112, 113. The owners of rent to have a lien on the produce of the land for the rent, and may distrain, unless security for payment has been given; but (113) distress not to be available for more than a year's rent.

114, 115, 116. Manager under Court of wards &c. may exercise power of distraining, &c.; (115) may distrain standing crops, &c.; (116) having first made a demand of the arrear.

117. Person distraining to make a list of things distrained and deliver it to the owner.

118. Standing crops, &c. may be reaped, &c. by cultivator notwithstanding distress, &c.

119. Distrainer may in case of need call for the aid of the Collector.

120. Distraining bailiff to have written authority.

121, 122, 123, 124. Distress to be withdrawn on tender of arrears; and (122) not sold till expiration of five days, &c. and sale to be by Civil Court Ameen; (123) on written application; copy of which (124) shall be sent to Collector, who shall make proclamation, &c.

125, 126. If suit instituted to contest the distress, the Ameen shall suspend proceedings; and (126) such suit may be instituted before notice of distraint.

127. Owner of property distrained may execute Bond and obtain release of distress.

128. Sale of distress to be proceeded with if not stayed by intermediate proceedings,

129, 130, 131, 132. Sale to be where; and (130) may be postponed if no fair biddings; and (131) Sale to be for ready money; and (132) costs to be paid out of proceeds.

133. Sale Officers not to be purchasers.

134. Sale Ameens are to report irregularities of distress.

135. Sale Ameens to be paid under specified circumstances though no sale takes place.

136. Proceedings of sale Ameens to be under revision, &c. of Collectors, &c.

137. Sale to proceed if security be not given to abide the event of contest of legality of the distress.

138. In suit to contest legality of distress, distrainer to prove right to distrain.

139, 140. If property of third person is distrained, he may institute suit against distrainer; and (140) if right to distrain be claimed by some third person adversely to distrainer, such third person to be made a party.

141. After sale of property wrongfully distrained owner may sue for damages.

142, 143, 144. Distraining bailiff liable to action; and (143) persons distraining without authority to be liable criminally as well as to damages; but (144) suit to be brought within three months after cause of action.

145. Illegal resistance of legal distress to be punishable with six months' imprisonment, &c.

146, 147. All processes under this Act to be under seal of Collecter, &c.; and (147) all resistance to process to be dealt with under the general law.

148. Collector may hold Court at any place within the limits of his Collectorate.

149. Mokhtiars may practise in Collector's Court without his licence, subject to specified consequences for illegal conduct.

150, 151. All powers given to Collectors may by delegation be exercised by his Deputy; and (151) Collectors and Deputies to be subject to Commissioners and Boards of Revenue.

152. Appeal to lie from Deputy to Collector, from Collector to Commissioner; the former to be brought within 15 days, the latter within 30; and neither appealable further.

153, 154. In suits under s. 23, c. 2, 4, 7, for amount not exceeding rupees 100, Collector's decision to be final, unless specified right be in question; and then and in all other cases, appeal to lie to Sudder; and (154) where Collector's decision final, Collector may himself order re-hearing.

155 Decision of Deputy Collector in no case to be final.

156. Petitions of appeal to be on stamped paper.

157, to 159. Collector to fix day for hearing appeal, and may give judgment by default or exparte, as case may be, and (158) if dismissed for default may be re-admitted on cause shown; and (159) Collector to give judgment as in regular suits.

160. In all cases not otherwise provided for, an appeal to lie from the Collector or Deputy to the Zillah Judge, unless the amount in dispute exceed Rs. 5000, in which case appeal to lie to the Sudder.

161. Stamps in appeals to the Zillah Judges and Sudder to be according to the general Stamp laws.

162, 163. Suits under this Act to be brought in the Court of the subdivision where cause arose within its jurisdiction; and (163) Collector not to have jurisdiction out of his district by reason of receiving revenues of an estate out of his local jurisdiction.

164, 165. Deputy Collector having Police functions, not to exercise powers under this Act; nor (165) Assistants at all unless vested with powers of Deputy Collectors.

166. Nothing in this Act to derogate from the rights vested in landed proprietors under Reg. 8, 1819, in regard to Putnee Talooks.

167. Act to commence from 1st Aug. 1859.

188. Interprets words, viz. "Civil Jail," "Nazir," &c.

An Act to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal.

Whereas it is expedient to re-enact with certain modifications the provisions of the existing law relative to the rights of ryots with respect to the delivery of pottahs and the occupancy of land, to the prevention of illegal exaction and extortion in connection with demands of rent, and to other questions connected with the same; to extend the jurisdiction of Collectors, and to prescribe rules for the trial of such questions, as well as of suits for the recovery of arrears of rent, and of suits arising out of the distraint of property for such arrears; and to amend the law relating to distraint; It is enacted as follows:—

Preamble.

I. The following Regulations and Acts and portions of Regulations and Acts are hereby repealed, except in so far as they repeal any other Regulation or Act, and except as to proceedings commenced before the date of this Act coming into force, namely—

Laws repealed.

Regulation XVII. 1793 *(to empower landholders to distrain and sell the personal property of ryots, &c.).*

So much of Regulation IV. 1794 *(to determine disputes regarding the grant of pottahs to ryots, &c.)* as is still in force.

Regulation XXXV. 1795 *(for better enabling individuals to recover arrears of rent or revenue due to them).*

Regulation XLV. 1795 *(to empower landholders in the Province of Benares to distrain &c.).*

Sections IX. and X. Regulation LII 1795 *(respecting ryotty pottahs in the Province of Benares).*

Sections I to XX Regulation VII. 1799 *(to enable landholders to realize their rents with greater punctuality &c.).*

Sections I. to XX. Regulation V. 1800 *(to enable landholders in the Province of Benares to realize their rents with greater punctuality. &c.).*

Regulation XXVIII. 1803 *(to empower landholders in the Ceded Provinces to distrain, &c.).*

Sections IX. and X. Regulation XXX. 1803 *(prescribing rules for the grant in the Ceded Provinces of pottahs to ryots, &c.).*

Section IV. Regulation II. 1805 *(to provide a limitation of time for certain suits, &c.).*

Section XIX. Regulation VIII. 1805 *(for extending certain Regulations to the Ceded and Conquered Provinces, &c.).*

Sections V. to XXIII. Regulation V. 1812 *(for amending some*

of the rules at present in force for the collection of the Land Revenue).

Sections XV. and XVI. Regulation XIX. 1817 *(for amending certain Regulations in force relative to process for recovery of arrears of rent).*

Sections XXVII. Regulation XX. 1817 *(relating to resistance to distraint for arrears of rent, &c.).*

Sections XVIII. and XIX. Regulation VIII. 1819, *relating to Putnee Talooks and the system established for the collection of rents generally &c.),*

Section IV. Regulation II. 1821 *(relating to the duties of City and Zillah Judges, &c.).*

Section XXII. and so much of Section XX. and the following Sections of Regulation VII. 1822 *(relating to the settlement of the Land Revenue in the Ceded Provinces and Cuttack)* as apply to suits for rent, to complaints of excessive demand or undue exaction of rent, or of the non-delivery of pottahs or receipts, to suits against agents for money or accounts, or to any other suits or complaints arising out of disputes between landholders or farmers and their under-tenants respecting the rent and occupancy of land.

Regulation XIV. 1824 *(for modifying the rules in force for referring to the Collectors summary suits in cases of arrear or exaction of rent).*

Regulation VIII. 1831 *(for amending the existing provisions relative to the trial of summary suits and claims for arrears or exactions of rent).*

Act I. of 1839 *(relating to the appointment of persons to sell property distrained for the recovery of arrears of rent).*

Act X. of 1846 *(for regulating the proceedings in certain cases of distraint for arrears of rent),* and

Act VIII. of 1848 *(to modify the provisions of Sections IX., X., XI., and XIII. of Regulation V. 1812 of the Bengal Code).*

Sections XIV. and XV. Regulation IX. 1833 *(for the more speedy decision of certain suits, and for enforcing the production of village accounts),* so far as the same are applicable to the territories under the Government of the Lieutenant-Governor of Bengal, are also repealed.

Such parts of Regulation VIII. 1793 *(prescribing rules for the*

decennial settlement of the public Revenue in Bengal, Behar, and Orissa), and Regulation XXX. 1803, as relate to the adjudication of penalties for the refusal of pottahs and receipts for rent and for the exaction of any sums as abwab or in excess of the amount specified in any engagements for the payment of rent, and such parts of Section XXVI. Act I. of 1845 *(to amend Act No. XII. of* 1841, *entitled "an Act for amending the Bengal Code in regard to sales of land for arrears of Revenue")*, as relate to the enhancement of rents and the ejectment of tenants by the purchaser of an estate sold for arrears of Government Revenue, are declared subject to the following modifications.

Ryot entitled to a pottah.

II. Every ryot is entitled to receive from the person to whom the rent of the land held or cultivated by him is payable, a pottah containing the following particulars:

The quantity of land; and where fields have been numbered in a Government survey, the number of each field.

The amount of annual rent.

The instalments in which the same is to be paid.

And any special conditions of the lease.

If the rent is payable in kind, the proportion of produce to be delivered, and the time and manner of delivery.

Ryots holding land at fixed rates to receive pottahs.

III. Ryots who, in the Provinces of Bengal, Behar, Orissa, and Benares, hold lands at fixed rates of rent, which have not been changed from the time of the permanent settlement are entitled to receive pottahs at those rates.

If rent of land be not changed for 20 years.

IV. Whenever, in any suit under this Act, it shall be proved that the rent at which land is held by a ryot in the said Provinces, has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that the land has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or unless it be proved that such rent was fixed at some later period.

Ryots having right of occupancy but not holding at fixed rates, to receive pottahs.

V. Ryots having rights of occupancy, but not holding at fixed rates, as described in the two preceding Sections, are entitled to receive pottahs at fair and equitable rates. In case of dispute, the

rate previously paid by the ryot shall be deemed to be fair and equitable, unless the contrary be shown in a suit by either party under the provisions of this Act.

Right of occupancy of ryot cultivating or holding land for 12 years.

VI. Every ryot who has cultivated or held land for a period of twelve years has a right of occupancy in the land so cultivated or held by him, whether it be held under pottah or not, so long as he pays the rent payable on account of the same; but this rule does not apply to khomar, neejjote, or seer land belonging to the proprietor of the estate or tenure and let by him on lease for a term or year by year, nor (as respects the actual cultivator) to lands sub-let for a term, or year by year by a ryot having a right of occupancy. The holding of the father, or other person from whom a ryot inherits, shall be deemed to be the holding of the ryot within the meaning of this Section.

Saving of terms of written contracts.

VII. Nothing contained in the last preceding Section shall be held to affect the terms of any written contract for the cultivation of land entered into between a landholder and a ryot when it contains any express stipulation contrary thereto.

Pottahs to which ryots not having rights of occupancy are entitled.

VIII. Ryots not having rights of occupancy are entitled to pottahs only at such rates as may be agreed on between them and the persons to whom the rent is payable.

Person granting pottah entitled to a counterpart engagement.

IX. Every person who grants a pottah is entitled to receive from the person to whom the pottah is granted a kubooliyet or counterpart engagement in conformity with the terms of the pottah. The tender to any ryot of a pottah such as the ryot is entitled to receive shall be held to entitle the person to whom the rent is payable to receive a kubooliyet from such ryot.

Exactions in excess of rent or receipt withheld.

X. Every under-tenant or ryot, from whom any sum is exacted in excess of the rent specified in his pottah, or payable under the provisions of this Act, whether as abwab or under any other pretext, and every under-tenant, ryot, or cultivator from whom a receipt is withheld for any sum of money paid by him as rent, shall be entitled to recover from the person receiving such rent damages not exceeding double the amount so exacted or paid. Receipts

Form of receipt.

for rent shall specify the year or years on account of which the rent is acknowledged to have been paid; and any refusal to make such specification shall be held to be a withholding of a receipt.

Landholder not to compel the attendance of tenant for adjustment of rent or for any other purpose.

XI. The power heretofore vested in Zemindars and other landholders of compelling the attendance of their tenants for the adjustment of their rents or for any other purpose is withdrawn, and all such persons are prohibited from adopting any means of compulsion for enforcing payment of the rents due to them other than are authorized by the provisions of this Act.

Payment of rent to be enforced only under this Act.

Damages for extorting payment of rent by duress.

XII. If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or ryot by illegal confinement or other duress, such under-tenant or ryot shall be entitled to recover such damages, not exceeding in any case the sum of two hundred Rupees, as may be deemed a reasonable compensation for the injury done him by such extortion. An award of compensation under this Section shall not bar or affect any penalty or punishment to which the persons practising such extortion may be subject by law.

Enhancement of rent of ryot holding without, or after expiry &c of written engagement.

XIII. No under-tenant or ryot, who holds or cultivates land without a written engagement not specifying the period of such engagement, or whose engagement has expired, or has become cancelled in consequence of the sale for arrears of rent or revenue of the tenure or estate in which the land held cultivated by him is situate, and has not been renewed, shall be liable to pay any higher rent for such land than the rent payable for the previous year, unless a written notice shall have been served on such under-tenant or ryot, in or before the month of Cheit, specifying the rent to which he will be subject for the ensuing year, and the ground on which an enhancement of rent is claimed. Such notice shall be served by order of the Collector on the application (which may be on plain paper) of the person to whom the rent is payable, and shall, if practicable, be served personally on the under-tenant or ryot. If for any reason the notice cannot be served personally upon the under-tenant or ryot, it shall be affix-

ed at his usual place of residence, or if he have no such place of residence in the District in which the land is situate, the mode of service of such notice shall be by affixing it at the Mal cutcherry of such land or other conspicuous place thereon, or at the village Chowree or Chowpal or at some other conspicuous place in the village in which the land is situate.

Mode of contesting enhancement of rent.

XIV. Any under-tenant or ryot, on whom such notice as aforesaid has been served, may contest his liability to pay the enchanced rent demanded of him, either by complaint of excessive demand of rent as hereinafter provided, or in answer to any suit preferred against him for recovery of arrears of the enhanced rent.

Dependent talookdar &c. holding land at fixed rent without change since permanent settlement not liable to enhancement of rent.

XV. No dependent talookdar or other person possessing a permanent transferable interest in land, intermediate between the proprietor of an estate and the ryots, who, in the Provinces of Bengal, Behar, Orissa, and Benares, holds his talook or tenure (otherwise than under a terminable lease) at a fixed rent, which has not been changed from the time of the permanent settlement, shall be liable to any enhancement of such rent, anything in Section LI. Regulation VIII. 1793, or in any other law, to the contrary notwithstanding.

Rent of talookdar &c. not changed for twenty years to be *primâ facie* evidence of occupancy at that rent since permanent settlement.

XVI. Whenever, in any suit under this Act it shall be proved that the rent at which a talook or other tenure is held in the said Provinces has not been changed for a period of twenty years before the commencement of the suit, it shall be presumed that such talook or tenure has been held at that rent from the time of the permanent settlement, unless the contrary be shown, or it be proved that such rent was fixed at some later period.

Grounds on which ryot having right of occupancy is liable to enhanced rent.

XVII. No ryot having a right of occupancy shall be liable to an enhancement of the rent previously paid by him except on some one of the following grounds, namely:—

That the rate paid by him is below that prevailing in adjacent places.

That the rate of rent paid by such ryot is below the prevailing rate payable by the same class of ryots for land of a similar description and with similar advantages in the places adjacent.

That the value of the land, &c. has increased independently of the ryot.

That the value of the produce or the productive powers of the land have been increased otherwise than by the agency or at the expense of the ryot.

That the quantity of land held by the ryot is greater than he has paid rent for.

That the quantity of land held by the ryot has been proved by measurement to be greater than the quantity for which rent has been previously paid by him.

When ryot may claim abatement of rent.

XVIII. Every ryot having a right of occupancy shall be entitled to claim an abatement of the rent previously paid by him, if the area of the land has been diminished by diluvion or otherwise, or if the value of the produce or the productive powers of the land have been decreased by any cause beyond the power of the ryot, or if the quantity of land held by the ryot has been proved by measurement to be less than the quantity for which rent has been previously paid by him.

Relinquishment of land by ryot after notice given.

XIX. Any ryot who desires to relinquish the land held or cultivated by him, shall be at liberty to do so, provided he gives notice of his intention in writing to the person entitled to the rent of the land or his authorized agent in or before the month of Cheit of the year preceding that in which the relinquishment is to have effect. If he fail to give such notice, and the land is not let to any other peron, he shall continue liable for the rent of the land. If the person entitled to the land or his agent refuse to receive any such notice and to sign a receipt for the same, the ryot may make an application on plain paper to the Collector who shall thereupon cause the notice to be served on such person or his agent in the manner provided in Section XIII.

What to be deemed an arrear of rent under this Act.

XX. Any instalment of rent which is not paid on or before the day when the same is payable according to the pottah or engagement, or, if there be no written specification of the time of payment, at or before the time when such instalment is payable according to established usage, shall be held to be an arrear of rent under this Act, and unless otherwise provided by written agreement, shall be liable to interest at twelve per centum per annum.

XXI. When an arrear of rent remains due from any ryot at the end of the Bengal year or the end of the month of Jeth of the Fusly or Willayutee year as the case may be, such ryot shall be liable to be ejected from the land in respect of which the arrear is due. Provided that no ryot, having a right of occupancy or holding under a pottah the term of which has not expired, shall be ejected otherwise than in execution of a decree or order under the provisions of this Act.

Liability of ryot to be ejected for arrear due.

Proviso.

XXII. When an arrear of rent shall be adjudged to be due from any farmer or other lease-holder not having a permanent or transferable interest in the land, the lease of such lease-holder shall be liable to be cancelled, and the lease-holder to be ejected. Provided that no such lease shall be cancelled nor the lease-holder ejected otherwise than in execution of a decree or order under the provisions of this Act.

Liability of farmer to have his lease cancelled for arrear adjudged due.

Proviso.

XXIII. 1. All suits for the delivery of pottahs or kubooliyets or for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered;

Cognizance of suits under this Act.

2. All suits for damages on account of the illegal exaction of rent or of any unauthorized cess or impost, or on account of the refusal of receipts for rent paid, or on account of the extortion of rent by confinement or other duress;

3. All complaints of excessive demand of rent, and all claims to abatement of rent;

4. All suits for arrears of rent due on account of land either kherajee or lakheraj, or on account of any rights of pasturage, forest-rights, fisheries, or the like;

5. All suits to eject any ryot or to cancel any lease on account of the non-payment of arrears of rent, or on account of a breach of the conditions of any contract by which a ryot may be liable to ejectment or a lease may be liable to be cancelled;

6. All suits to recover the occupancy or possession of any land, farm, or tenure, from which a ryot, farmer, or tenant has been illegally ejected by the person entitled to receive rent for the same;

7. All suits arising out of the exercise of the power of distraint conferred on Zemindars and others by Sections CXII. and CXIV. of this Act, or out of any acts done under color of the exercise of the said power as hereinafter particularly provided; shall be cognizable by the Collectors of land revenue and shall be instituted and tried under the provisions of this Act and, except in the way of appeal as provided in this Act, shall not be cognizable in any other Court or by any other Officer or in any other manner.

Suits by Zemindars against their agents for money or accounts.

XXIV. Suits by Zemindars and others in receipt of the rent of land, against any agents employed by them in the management of land or collection of rents, or the sureties of such agents, for money received or accounts kept by such agents in the course of such employment, or for papers in their possession, shall be cognizable by the Collectors, and shall be instituted and tried under the provisions of this Act, and shall not be cognizable in any other Court except in the way of appeal as provided in this Act.

Ejectment of cultivators, farmer, &c. by Zemindars.

XXV. If any Zemindar or other person in receipt of the rent of land requires assistance to eject any cultivator not having a right of occupancy, or to eject any farmer or other tenant holding only for a limited period after the determination of his lease or tenancy, or any agent after the determination of his agency, or to enforce any attachment or ejectment expressly authorized by any Regulation or Act, he shall make application to the Collector, and the Collector shall proceed thereupon to enquire into the case and pass orders in the manner provided for suits under this Act. Provided that no such application for the ejectment of a farmer on the determination of a lease shall be received, if the lease be of the kind denominated ticca zur-i-peshgee or the like, in which an advance has been made by the lease-holder, and the proprietor's right of re-entry at the end of the term is contingent on the re-payment of such advance either in money or by the usufruct of the land. In all such cases the parties must proceed by suit in the Civil Court.

Proviso.

Measurement of lands.

XXVI. When rent is payable by an under-tenant or ryot at a certain rate or rates according to the quantity of land held or cultivated by him, or when any written

engagement conditioned for the payment of a certain amount of rent on account of land held or cultivated by an under-tenant or ryot has expired or become cancelled by the sale for arrears of revenue or rent of the estate or tenure in which the land is situate, the person to whom the rent is payable has a right to measure such land for the purpose of ascertaining the quantity of land actually held or cultivated by such under-tenant or ryot. And every proprietor of an estate or tenure has a right of making a general survey or measurement of the lands comprised in such estate or tenure unless restrained from doing so by express engagement with the occupants of the lands. If any person intending to measure any land which he has a right to measure is opposed in making such measurement by the occupant of the land, or if any under-tenant or ryot, having received notice of the intended measurement of land held or cultivated by him which is liable to such measurement, refuses to attend and point out such land, such person may make application to the Collector, and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and shall pass an order either allowing or disallowing the measurement, and, if the case so require, enjoining or excusing the attendance of any such under-tenant or ryot. If any under-tenant or ryot after the issue of an order enjoining his attendance neglects to attend, it shall not be competent to him to contest the correctness of the measurement made in his absence.

Registry of transfers of talooks &c.

XXVII. All dependent talookdars and other persons possessing a permanent transferable interest in land intermediate between the Zemindar and the cultivator are required to register, in the Sherishteh of the Zemindar or superior tenant to whom the rents of their talooks or tenures are payable, all transfers of such talooks or tenures, or portions of them, by sale, gift, or otherwise, as well as all successions thereto, and divisions among heirs in cases of inheritance. And every Zemindar or superior tenant is required to admit to registry and otherwise give effect to all such transfers, when made in good faith, and all such successions and divisions. If any Zemindar or superior tenant refuse to admit to registry or otherwise give effect to any such transfer or succession, the transferree or successor may make application to the

Collector and the Collector shall thereupon proceed to enquire into the case in the manner provided for suits under this Act, and if no sufficient grounds are shown for the refusal, shall pass an order enjoining the Zemindar or superior tenant to admit to registry and otherwise give effect to such transfer or succession.

Proviso. Provided that no Zemindar or superior tenant shall be required to admit to registry or give effect to any division or distribution of the rent payable on account of any such tenure, nor shall any such division or distribution of rent be valid and binding without the consent in writing of the Zemindar or superior tenant.

Applications to dispossess grantees of land exempt from revenue.

XXVIII. So much of Section X. Regulation XIX. 1793, Section X. Regulation XLI. 1795, Section VI. Regulation XXXI. 1803, Section XXI. Regulation VIII. 1805, and Section XXIV. Regulation XII. 1805, as authorizes and requires proprietors and farmers of estates and dependent talooks, in cases in which grants for holding land exempt from the payment of revenue have been made subsequent to the dates specified in the said Sections, of their own authority to collect the rents of such land and to dispossess the grantees of the proprietary right in the land and to re-annex it to the estate or talook in which it may be situate, is repealed; and any proprietor or farmer who may desire to assess any such land or to dispossess any such grantee shall make application to the Collector, and such application shall be dealt with as a suit under the provisions of this act. Every such suit shall be instituted within the period of twelve years from the time when the title of the person claiming the right to assess the land or dispossess the grantee, or of some person claiming under him, first accrued. If such period has already elapsed, or will elapse within two years from the date of the passing of this Act, such suit may be brought at any time within two years from such date.

Suits by or against Surburakars or Tuhseeldars of estates held khas.

XXIX. All suits which under the provisions of this Act may be brought by or against Zemindars or other persons in the receipt of the rent of land, may be brought by or against Surburakars or Tuhseeldars of estates held under khas management, whether such estates are the property of Government or of individuals.

If the Collector or the Suburakar or Tuhseeldar of any such estate in the provinces of Bengal, Behar, and Orissa, proceed against any defaulting ryot or under-tenant of such estate under the powers vested in him by Section XXV. Regulation VII. 1799, and not according to the provisions of this Act, such ryot or under-tenant may contest the demand on account of which he is so proceeded against by suit in the Civil Court.

Time for commencement of suits generally.

XXX. Except as otherwise herein provided, all suits instituted under this Act shall be commenced within the period of one year from the date of the accruing of the cause of action.

Time for commencement of suits for grant of pottahs, &c.

XXXI. Suits for the delivery of pottahs or kubooliyets and for the determination of the rates of rent at which such pottahs or kubooliyets are to be delivered, may be instituted at any time during the tenancy.

Time for the commencement of suits for arrears of rent.

XXXII. Suits for the recovery of arrears of rent shall be instituted within three years from the last day of the Bengal year, or from the last day of the month of Jeth of the Fusly or Willayuttee year in which the arrear claimed shall have become due. For arrears of rent due at the passing of this Act, or suit shall be brought within three years after the passing of this Act; or within the period now allowed for the institution of such suits in the Civil Court, whichever may first expire. Provided that, if the suit be for the recovery of rent at a higher rate than was payable in the previous year, such rent having been enhanced after issue of notice under Section XIII. and the enhancement not having been confirmed by any competent Court, the suit shall be instituted within three months from the end of the Bengal year or of the month of Jeth of the Fusly or Willayuttee year, on account of which such enhanced rent is claimed.

Proviso.

Time for the commencement of suits against agents for money, papers, or accounts.

XXXIII. Suits for the recovery of money in the hands of an agent or for the delivery of accounts or papers by agent, may be brought at any time during the agency, or within one year after the determination of the agency of such agent, or in the case of claims now existing within one year after the passing

of this Act or within the period now allowed for the institution of such suits in the Civil Court whichever may first expire. Provided that if the person having the right to sue shall, by means of fraud, have been kept from the knowledge of the receipt of any such money by the agent, or if any fraudulent account shall have been rendered by the agent, the suit may be brought within one year from the time when the fraud shall have been first known to such person; but no such suit shall in any case (except the case of claims now existing as aforesaid) be brought at any time exceeding three years from the termination of the agency.

Proviso.

XXXIV. Suits under this Act shall be instituted by presenting to Collector a plaint or statement of claim which shall contain the name, description, and place of abode of the plaintiff; the name, description, and place of abode of the defendant, so far as they can be ascertained; the substance of the claim, and the date of the cause of action.

Mode of instituting suits. Form of plaint or statement of claim.

XXXV. The statement of claim shall be presented by the plaintiff, or by an authorized agent of the plaintiff who has personal knowledge of the facts of the case, or by an agent who shall be accompanied by a person who has such knowledge.

Statement by whom to be presented.

XXXVI. The statement of claim shall be subscribed and verified at the foot by the plaintiff or his agent in the manner following, or to the like effect:

Verification of statement.

I, A. B. do declare that the above statement is true to the best of my knowledge and belief.

If the statement shall contain any averment which the person making the verification shall know or believe to be false, or shall not know or believe to be true, such person shall be subject to punishment according to the law for the time being in force for the punishment of giving or fabricating false evidence.

Punishment for false verification.

XXXVII. In suits for the recovery of arrears of rent or of money in the hands of an agent, the statement of claim shall be written on paper bearing a stamp of one-fourth the value prescribed for suits instituted in the Civil Court. In all other suits the state-

Statement of claim to be written on stamped paper.

ment shall be written on paper bearing a stamp of the value of eight annas. No stamp shall be required in respect of the production or filing of any document, or the summoning of any witness, or of any application for the execution of any order or judgment passed in a suit under this Act.

No stamp duty to be required for filing documents, &c.

XXXVIII. If the plaintiff rely in support of his claim on any document in his possession, he shall deliver the same to the Collector at the time of presenting his statement of claim. Unless such document be delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

Documentary evidence to be produced by plaintiff.

XXXIX. If the plaintiff require the production of any document in the possession or power of the defendant, he may at the time of presenting his statement of claim, deliver to the Collector a description of the document in order that the defendant may be required to produce the same.

If plaintiff require production of document from defendant.

XL. If the suit be for the recovery of an arrear of rent, the statement shall specify the name of the village and estate, and of the Pergunnah or other local division in which the land is situate; and if the arrear is alleged to be due from any ryot, the quantity of land, and where fields have been numbered in a Government Survey, the number of each field; the yearly rent of the land, the amount (if any) received on account of the year for which the claim is made, the amount in arrear, and the time in respect of which it is alleged to be due.

Form of plaint in suits for arrears of rent.

XLI. If the suit be for the ejectment of ryot, farmer, or tenant, from any land, farm, or tenure, or for the recovery of the occupancy or possession of any land, farm, or tenure, the statement shall describe (as circumstances may require) the extent, situation, and designation of the same; and if necessary for the identification of the land, shall set forth the boundaries of such land.

Form of plaint in suits for ejectment of ryot, &c. or for recovery of occupancy or possession of land, &c.

XLII. If the statement of claim do not contain the several

Statement may be returned or allowed to be amended.

particulars hereinbefore required to be specified therein, or be not subscribed and verified as hereinbefore required, the Collector may return the statement to the plaintiff, or at his discretion allow it to be amended.

Issue of summons; personal attendance of defendant may be required.

XLIII. If the statement of claim be in proper form, the Collector, except as otherwise hereinafter especially provided, shall direct the issue of a summons to the defendant, and if the plaintiff require the personal attendance of the defendant, and satisfy the Collector that such personal attendance is necessary, or the Collector of his own accord require such personal attendance, the summons shall contain an order for the defendant to appear personally on a day to be specified in the summons, otherwise the summons shall order the defendant to appear personally or by an agent duly authorized on his behalf, who has personal knowledge of the subject, or who shall be accompanied by a person who has such personal knowledge.

The day to be specified in the summons how to be fixed. Defendant to be ordered to produce necessary documents, and to bring witnesses willing to attend without process.

XLIV. The day to be specified in the summons shall be fixed with reference to the state of the file and the distance that the defendant may be or be supposed to be at the time from the place where the Court is held, and the summons shall order the defendant to produce any document which he may have in his possession, of which the plaintiff demands inspection, or upon which the defendant may intend to rely in support of his defence. It shall also enjoin him to bring with him his witnesses if they are willing to attend without issue of process; and shall be in the form A contained in the Schedule to this Act, or to the like effect.

Summons how to be served.

XLV. The summons shall be served by delivering a copy of the summons to the defendant personally when practicable; or if the summons cannot be served on the defendant personally, by affixing a copy of it to some conspicuous part of his usual place of abode, and also affixing a copy of the same in the Collector's Office.

Endorsement by Nazir if summons has been personally served or not.

XLVI. If the summons be served personally, the Nazir shall endorse on the summons the fact of such service. If personal service be not effected, the Nazir shall endorse on the summons the reason of not serving it personally, and how it has been served.

Execution of process in another District.

XLVII. If the usual place of abode of the defendant be in another district, the summons, together with the cost of the service thereof, shall be sent by the public post to the Collector of such District, who shall issue the summons, and return the same, after service, with the prescribed endorsement, to the Officer by whom it was transmitted to him.

Cost of serving summons or warrant to be deposited in Court.

XLVIII. The amount of the cost of serving the summons, or if a warrant be issued as provided in the next succeeding Section, of serving the warrant, shall in all cases be deposited in Court upon the same day or the day next following that on which the plaint or statement of claim is presented to the Collector. If the said amount be not so deposited (except in cases in which the Collector may allow the issue of summons free of cost under the discretion reserved to him in Section CXLVI.), the case shall not be brought on the file of suits; but in such case the plaintiff may present another plaint at any time within the period allowed by the rules for the limitation of actions.

Warrant of arrest in what cases to be issued.

XLIX. If in any suit against an under-tenant or ryot for the recovery of an arrear of rent, or against an agent for the recovery of any money, papers, or accounts, the plaintiff desires a warrant of arrest to be issued against the defendant, such defendant being resident within the district in which the suit is instituted, he shall present with his statement of claim an application for the issue of such warrant. When such application is presented, the Collector shall examine the plaintiff or his Agent, on his oath or affirmation or otherwise according to the law for the time being in force in relation to the examination of witnesses, and inspect the documents adduced by him in support of his claim, and if there be *prima facie* grounds for believing the claim to be well founded, and that, if a summons be issued, the defendant will abscond instead of appearing to answer the claim, the Collector may issue a warrant for the arrest of the defendant. The Collector shall fix a reasonable time for the return of the warrant which shall be in the form (B) contained in the Schedule to this Act, or to the like effect, and the Officer entrusted with the service of the warrant shall at the time of arresting the defendant deliver to him a notice addressed to the defendant (which shall be in the form (C) in the Schedule or to the like effect) containing the

particulars of the claim, and requiring the defendant, if he contest the claim, to bring with him any document upon which he may intend to rely in support of his defence. But no such warrant shall be issued in a suit for arrears of rent due in respect of a dependent talook or other transferable tenure, which, as hereinafter provided, is liable to sale in execution of any decree which may be passed in the case.

Procedure after arrest of defendant.

L. If a defendant be arrested under the warrant of arrest, he shall be brought with all convenient speed before the Collector, and the Collector shall commit him to custody unless he deposit in Court such sum as may be specified in the notice.

Procedure when defendant is brought before the Collector under warrant.

LI. When a defendant is brought before the Collector under warrant, the Collector shall with all convenient speed proceed to try the case in the manner hereinafter provided; and if the suit cannot be at once adjudicated, the Collector may, if he think fit, require the defendant to give security for his appearance whenever the same may be required at any time whilst the suit is depending or until execution of the final decree which may be passed thereon, and may commit the defendant to the Civil Jail to be there detained until he shall furnish such security or deposit such sum as the Collector shall order. The security bond shall be in the form (D) contained in the Schedule to this Act or to the like effect.

Form of security bond.

Procedure if warrant of arrest cannot be served upon the defendant.

LII. If the defendant cannot be arrested under the warrant, the Collector, on the application of the plaintiff, shall either postpone the case for such period as he may think proper in order that the plaintiff may apply within the said period for another warrant to be issued for the arrest of the defendant, or shall forthwith issue a proclamation to be affixed in his own Office and at the residence of the defendant fixing a day for the hearing of the case, which shall not be less than ten days from the date of the publication of the notice at the residence of the defendant. If the defendant shall appear in pursuance of the proclamation, he shall be dealt with as provided in the last preceding Section.

Compensation for

LIII. If it shall appear to the Collector that the arrest of the defendant was applied for without reason-

arrest applied for without reasonable cause.

able cause, the Collector may in his decree award to the defendant such sum not exceeding one hundred Rupees as he may deem a reasonable compensation for any injury or loss which the defendant may have sustained by reason of such arrest, or of his detention in jail during the pendency of the suit.

Consequence of neither party appearing on the day of trial.

LIV. If on the day fixed by the summons or proclamation for the appearance of the defendant, or on any subsequent day to which the hearing of the case may be adjourned prior to the recording of an issue for trial as hereinafter provided, neither of the parties appear in person or by an agent, the case shall be struck off, with liberty to the plaintiff to bring a fresh suit unless precluded by the rules for the limitation of action.

If defendant only appear to dispute the demand, Collector shall pass judgment by default; but if defendant admit the claim, Collector shall decree upon such admission.

Proviso.

LV. If on any such day the defendant only appear, the Collector shall pass judgment against the plaintiff by default unless the defendant admit the cause of action, in which case the Collector shall proceed to give judgment for the plaintiff upon such admission without costs; provided that such judgment, if there be more than one defendant, shall be only against the defendant who makes the admission.

If plaintiff only appear, Collector may proceed *ex parte*.

LVI. If on any such day the plaintiff only appear, the Collector, upon proof that the summons or proclamation has been duly served according to the provisions of this Act, shall proceed to examine the plaintiff or his agent, and after considering the allegations of the plaintiff, and any documentary or oral evidence adduced by him, may either dismiss the case or postpone the hearing of it to a future day for the attendance of any witness the plaintiff may wish to call, or may pass judgment *ex parte* against the defendant.

If defendant appear on a day which the case is postponed, Collector may allow him to be heard in answer to the suit.

LVII. If the defendant shall appear on any subsequent day to which the hearing of the suit may be postponed under the last preceding Section, the Collector may, upon such conditions, if any, as to costs or otherwise as he may think proper, allow the defendant to be heard in answer

to the suit as if he had appeared on the day fixed for his attendance.

Revival, reversal, and alteration of decrees *ex parte* or by default.

LVIII. No appeal shall lie from a judgment passed *ex parte* against a defendant who has not appeared, or from a judgment against a plaintiff by default for non-appearance. But in all such cases if the party against whom judgment has been given shall appear, either in person or by agent, if a plaintiff within fifteen days from the date of the Collector's order, and if a defendant within fifteen days after any process for enforcing the judgment has been executed, or at any earlier period, and shall show good and sufficient cause for his previous non-appearance and shall satisfy the Collector that there has been a failure of justice, the Collector may, upon such terms and conditions as to costs or otherwise as he may think proper, revive the suit and alter or rescind the decree, according to the justice of the case. But no decree shall be reversed or altered without previously summoning the adverse party to appear and be heard in support of it.

On appearance of parties, the parties to be examined by the Collector, and may cross-examine each other.

LIX. When both parties appear in person or by agent on the day named in the summons, or upon any subsequent day to which the hearing of the case may be adjourned, for sufficient reason to be recorded by the Collector, the Collector shall proceed to examine such of the parties as may be present, and either party or his agent may cross-examine the other. If either of the parties be not bound to attend personally, any agent by whom he shall appear, or any person who shall accompany such agent, shall be examined and cross-examined in like manner as the party himself would have been if he had attended personally. At the time of examination the defendant, if he think fit, may file a written statement of his defence.

Examination of parties, &c.

LX. The examination of the parties or their agents or such other persons as aforesaid shall be upon oath or affirmation or otherwise according to the law for the time being in force relative to the examination of witnesses. The substance of the examination shall be reduced to writing in the vernacular language of the Collector and filed with the record.

LXI. If either of the parties shall bring forward a witness on such day, the Collector may take the evidence of such witness.

Witnesses to be examined.

LXII. If the defendant rely on any document in support of his defence, he shall deliver the same into Court at the first hearing of the suit; and unless such document be so delivered in, or its non-production be sufficiently excused, or unless the Collector see fit to extend the time for producing the same, it shall not afterwards be admitted.

Documentary evidence to be produced by defendant.

LXIII. If after the examination required by Section LIX. and also the examination of any witness who may attend to give evidence on behalf of either of the parties, and after a consideration of the documentary evidence adduced, a decree can be properly made without further evidence, the Collector shall make his decree accordingly.

After examination, Collector may make his decree if no further evidence is required.

LXIV. If on such examination as aforesaid the agent of either party be unable to answer any material question relating to the case which the Collector is of opinion that the party whom he represents ought to answer, and is likely to be able to answer if interrogated in person, the Collector may postpone the hearing of the case to a future day, and direct that the party whose agent may have been unable to answer as aforesaid shall attend in person on such day; and if the party so directed to attend shall fail to appear in person on the day appointed, the Collector may pass judgment as in case of default or make such other order as he may deem proper in the circumstances of the case.

Consequence of inability of agent to answer.

LXV. If on such examination as aforesaid it appear that the parties are at issue on any question upon which it is necessary to hear further evidence, the Collector shall declare and record such issue, and shall fix a convenient day for the examination of witnesses and the trial of the suit; and the trial shall take place on that day unless there be sufficient reason for adjourning it, which reason shall be recorded by the Collector.

If necessary, Collector to record issue and to fix a day for hearing further evidence.

LXVI. The parties shall bring forward their witnesses on

Parties shall produce their witnesses on the day of trial; or Collector on application of either party, shall issue summons for the attendance of a witness.

the day of trial, and if either party require assistance to procure the attendance of a witness on such day either to give evidence or to produce a document, he shall apply to the Collector in sufficient time before the day fixed for the trial, to enable the witness to be summoned to attend on that day; and the Collector shall issue a summons requiring such witness to attend.

Rules regarding attendance, examination, &c. of witnesses.

LXVII. The provisions of the Regulations and Acts and all other rules for the time being in force relating to the evidence of witnesses, for procuring the attendance of witnesses and the production of documents, and for the examination, remuneration, and punishment of witnesses, whether parties to the case or not, in cases before the Civil Courts of the Presidency of Bengal, shall, except so far as the same may be inconsistent with the provisions of this Act, apply to and be of equal force and effect in suits under this Act.

Consequence of parties not appearing on the day fixed for the trial of any issue.

LXVIII. If on the day fixed for the trial of any issue neither of the parties appear, the case shall be struck off under the conditions provided in Section LIV. If on any such day one only of the parties appear, the issue may be tried and determined in the absence of the other party upon such proof as may be then before the Court.

Suits instituted or defended by Naibs, Gomastahs, &c.

LXIX. When suits under this Act are instituted or defended by Naibs, Gomastahs, or other persons employed in the collection of rent or management of land in the name and on the behalf of the landholders by whom they are so employed, all the provisions of this Act, by which the personal appearance or attendance of parties to a suit is or may be required, shall be applicable to such Naibs, Gomastahs, or other persons; and any thing which by this Act is required or permitted to be done by a party in person, may be done by any such person as aforesaid. Processes served on any such person shall be as effectual for all purposes in relation to the suit as if the same had been served on the landholder in person, and all the provisions of this Act relative to the service of processes on a party to the suit shall be applicable to the service of processes on such person.

LXX. A plaintiff or defendant shall not be required to attend in person if of the female sex and of a rank or class which according to the custom and manners of the country would render it improper for her to appear in public.

Personal attendance of plaintiff or defendant not required in certain cases.

LXXI. Any party to a suit may employ an authorized agent or mookhtar to conduct the case on his behalf, but the appointment of such agent or mookhtar shall not excuse the personal attendance of the plaintiff or defendant in cases where his personal attendance is required by the summons or any order of the Court; and no fee for any agent shall be charged as part of the costs of suit in any case under this Act.

Employment of authorized agents or mookhtars.

LXXII. The Collector may in any case grant time to the plaintiff or defendant to proceed in the prosecution or defence of a suit, and may also from time to time, in order to the production of further proof or for other sufficient reason to be recorded by the Collector, adjourn the hearing or further hearing of any case in such manner as to him may seem fit.

Collector may grant time or adjourn hearing.

LXXIII. The Collector may at any stage of a case cause a local enquiry and report respecting the matter in dispute to be made by any Officer subordinate to him, or by any other Officer of Government with the consent of the authority to whom such Officer is subordinate, or may himself proceed to the spot and make such local enquiry in person. The provisions of the law for the time being in force relative to local enquiries by Ameens or Commissioners under orders of the Civil Courts shall apply to any local enquiry made by any Officer under this Section, and, so far as they are applicable, to enquiries made by the Collector in person. In the latter case the Collector, after completing the enquiry, shall record on the proceedings such observations as appear to him appropriate, and the observations so recorded shall be received as evidence in the suit.

Collector may cause local enquiry to be made.

LXXIV. The defendant in any action under this Act may pay into Court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by the plaintiff up to the time of such payment, and such sum shall

Defendant may pay money into Court in satisfaction of the demand.

be paid to the plaintiff. If the defendant deposit less than the sum claimed and the plaintiff elect to proceed in the case, and ultimately recover no further sum than shall have been paid into Court, the plaintiff shall be charged with any costs incurred by the defendant in the suit after such payment.

If plaintiff elect to proceed and ultimately recover no further sum than that paid into Court, he shall be liable to the subsequent costs.

LXXV. No interest shall be allowed to a plaintiff on any sum paid by the defendant into Court from the date of such payment, whether such sum be in full of the plaintiff's claim or fall short thereof.

No interest on deposits.

LXXVI. If on the trial of a suit for the delivery of a pottah instituted by a ryot having a right of occupancy the parties do not agree as to the term for which the pottah is to be granted, the Collector shall fix such term as under the circumstances of the case he may think just and proper. Provided that the term shall not in any case be longer than ten years, and in estates not permanently settled shall not extend beyond the period for which the proprietor of the estate has engaged with Government. Provided also that, if the defendant be a farmer or other person having only a temporary interest in the land, the term of the pottah shall not extend beyond the period of the continuance of such interest. For cultivators not having a right of occupancy, the term of pottah shall be exclusively in the discretion of the person entitled to the rent of the land.

If on trial of suit for delivery of pottah parties do not agree as to the time for which the pottah is granted, Collector to fix the time.

Proviso.

LXXVII. When in any suit between a landholder and a ryot or under-tenant under this Act, the right to receive the rent of the land or tenure cultivated or held by the ryot or under-tenant is disputed, and such right is claimed by or on behalf of a third person on the ground that such third person or a person through whom he claims has actually and in good faith received and enjoyed such rent before and up to the time of the commencement of the suit, such third person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such third person shall be enquired into and the suit shall be decided according to the result of such enquiry. Provided al-

If in actions for rent a third claimant appear he is to be made a party to the suit.

Proviso.

ways that the decision of the Collector shall not affect the right of either party, who may have a legal title to the rent of such land or tenure, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Suits for ejectment or cancelment of lease.

LXXVIII. Any person desiring to eject a ryot or to cancel a lease on account of non-payment of arrears of rent, may sue for such ejectment or cancelment and for recovery of the arrear in the same action, or may adduce any unexecuted decree for arrears of rent as evidence of the existence of such arrear in a suit for such ejectment or cancelment. In all cases of suits for the ejectment of a ryot or the cancelment of a lease, the decree shall specify the amount of the arrear, and if such amount together with interests and costs of suit be paid into Court within fifteen days from the date of the decree, execution shall be stayed.

Judgment how to be pronounced.

LXXIX. The Collector shall pronounce judgment in open Court. The judgment shall be written in the Vernacular language of the Collector and shall contain the reasons for the same, and shall be dated and signed by the Collector at the time when it is pronounced.

If person required by the decree refuse to grant pottah, Collector may do so.

LXXX. When a decree is given for the delivery of a pottah if the person required by the decree to grant such pottah refuse or delay to grant the same, the Collector may grant a pottah in conformity with the terms of the decree under his own hand and seal, and such pottah shall be of the same force and effect as if granted by the person aforesaid.

Refusal of person to execute kubooliyat as required by the decree.

LXXXI. When a decree is given for the delivery of a kubooliyet, if the person required by the decree to execute such kubooliyet shall refuse to execute the same, the decree shall be evidence of the amount of rent claimable from such person, and a copy of the decree under the hand and seal of the Collector shall be of the same force and effect as a kubooliyet executed by the said person.

Mode of executing decree for ejectment or re-instatement of ryot.

LXXXII. If the decree be for the ejectment of any ryot from land occupied by him, or for the re-instatement of any ryot in the occupancy of land from which he has been ejected, the decree

shall be executed by giving the possession or occupancy of the land to the person entitled by the decree to such possession or occupancy. If any opposition is made to the execution of the order for giving such possession or occupancy by the party against whom the order is made, the Magistrate, on the application of the Collector, shall give effect to the same.

Punishment for obstructing execution.

LXXXIII. If the decree be for the cancelment of any lease or the ejectment of any farmer or other person (not being an actual cultivator) or for the re-instatement of any farmer or other such person in the possession of a farm or tenure from which he has been ejected, the decree shall be executed by proclaiming the substance of the decree to the cultivators or other occupants by beat of drum or in such other manner as may be customary, and affixing the same in some conspicuous place within or adjacent to the farm or tenure.

Mode of executing decree for cancelment of a lease or for ejectment or re-instatement of a farmer or tenant.

LXXXIV. If the decree be for arrears of rent or for money, papers, or accounts, and the defendant have been committed to jail or appear pursuant to the conditions of any security bond given under Section LI. the Collector may order that he be detained in or committed to the Civil jail, unless he immediately pay into Court the amount of the decree with costs, or otherwise comply with the terms of the decree.

In what case a judgment debtor may be detained or imprisoned without issue of process of execution.

LXXXV. If the judgment-debtor have given security for his appearance and be not present when judgment is pronounced, and the surety shall fail to deliver him into custody when required so to do, process of execution may be taken out against the surety in the same manner as if a decree for the amount due by the debtor had been passed against the surety. If the decree be for the delivery of papers or accounts, and the defendant be not present when judgment is pronounced and the surety shall fail to deliver him into custody when required so to do, execution may be taken out against the surety for the sum due under the bond in the same manner as if a decree for that sum had been passed against the surety.

Liability of surety on failure to deliver judgment-debtor into custody.

LXXXVI. Process of execution may be issued against either the person or the property of a judgment-debtor: but process shall not be issued simul-

Issue of process of execution.

taneously against both person and property. Process of execution against the person or movable property of a debtor shall be in the form (E) or (F) contained in the Schedule to this Act, or to the like effect.

Application for execution against movable property.

LXXXVII. Any movable property required to be seized under an execution shall, if practicable, be described in a list to be furnished by the judgment-creditor, but if the creditor is unable to furnish such list he may apply for a general attachment of the debtor's effects to the amount of the judgment and costs. In either case the property to be seized shall be pointed out to the Officer entrusted with the execution of the process by the creditor or his agent.

How long warrant shall continue in force.

LXXXVIII. Every warrant of execution shall bear date on the day on which it is signed by the Collector and shall continue in force for such period as the Collector may direct, not being more than sixty days calculated from such date.

Second and successive warrants.

LXXXIX. Second and successive warrants of execution may be issued by order of the Collector on the application of the judgment-creditor after the expiration of the period fixed for the continuance in force of a previous warrant.

After one year execution not to issue without notice.

XC. Process of execution shall not be issued upon any judgment without previous notice to the party against whom execution is applied for, if, when application for the issue of the process is made, a period of more than one year shall have elapsed from the date of the judgment or from the date of the last previous application for execution.

Execution not to issue against heir or representative of a deceased party without notice.

XCI. Execution on a judgment shall not issue against the heir or other representative of a deceased party without notice to such heir or other representative to appear and be heard.

No process of execution to be issued three years after date of judgment.

XCII. No process of execution of any description whatsoever shall be issued, on a judgment under this Act, after the lapse of three years from the date of such judgment, unless the judgment be for a sum exceeding five hundred Rupees, in which case the period within which execution may be had shall be regulated by the

general rules in force in respect to the period allowed for the execution of decrees of the Civil Courts.

Warrant against the person.

XCIII. If a warrant issue for taking in execution the body of any person, the Officer charged with the execution of the warrant shall bring him with all convenient speed before the Collector. If such person shall not then deposit in Court the full amount specified in the warrant or make such arrangement for the payment of the same as shall be satisfactory to the judgment-creditor, or satisfy the Collector that he has no present means of paying the debt, the Collector shall send him to the Civil Jail there to remain for such time as shall be directed by a warrant addressed to the keeper of the jail, unless he shall in the meantime pay the full amount for the payment of which he is liable under the decree. Provided that the time for which a debtor may be confined in execution of a decree under this Act shall not exceed three calendar months when the amount decreed exclusive of costs does not exceed fifty Rupees, or six calendar months when such amount does not exceed five hundred Rupees, or two years in any other case. If the decree against any person arrested under a warrant be for the delivery of papers or accounts and the papers or accounts shall not be delivered by him when he is brought before the Collector, such person may be committed to the Civil Jail there to remain for such time not exceeding six calendar months as the Collector shall direct, unless he shall in the meantime deliver the papers or accounts according to the terms of the decree.

Limit of imprisonment.

If arrest be for non-delivery of accounts.

No person to be imprisoned a second time under same judgment.

XCIV. Any person once discharged from jail shall not be imprisoned a second time under the same judgment. If the amount due under the decree do not exceed one hundred Rupees, the Collector may declare such discharged person absolved from further liability under that decree. In other cases the discharge shall not extinguish the liability of the discharged person under the decree, or exempt any property belonging to such person from attachment in execution of the same.

XCV. Any person applying for a warrant of arrest under

Diet-money to be deposited at the time of issue of warrant.

Section XLIX. or suing out process of execution against the body of any person, shall deposit in Court, at the time of issue of the warrant, diet-money for one month of thirty days at such rate as the Collector may direct, not exceeding two annas per diem, unless the Collector for any special reason direct that deposit be made at a higher rate, which shall not exceed four annas per diem.

Payment of diet-money in advance during imprisonment.

XCVI. Payment of diet-money at the same rate shall be made previously to the commencement of each succeeding month of the imprisonment, in failure of which the party confined shall be discharged.

Diet-money to be costs in suit.

XCVII. All diet-money spent in providing subsistence for any prisoner shall be added to the costs in the suit, and any diet-money not so spent shall be returned to the person who deposited the same.

List of property to be prepared and proclamation of sale to be published, &c.

XCVIII. In executing a writ of execution against the movable property of a debtor liable under this Act, the Officer charged with the execution of the writ shall prepare a list of the property pointed out by the judgment-creditor, and shall publish a proclamation specifying the day upon which the sale is intended to be held together with a copy of the said list at the intended place of sale and at the residence of the debtor. A copy of the said proclamation and list shall be transmitted to the Collector and shall be affixed in his Office.

Custody and sale of movable property taken in execution.

XCIX. No sale of any movable property taken in execution shall be made until after the end of ten days next following the day on which such property may have been so taken. Until such sale the property shall be deposited in some fit place or it may remain in custody of some fit person approved by the Officer executing the writ. The provisions of Sections CXXIX. to CXXXIII. so far as the same are applicable, shall be applied to sales under this Section.

Collector may stay

C. If before the day fixed for the sale a third party appear before the Collector and claim a right or in-

sale of movable property seized if a third party claim any interest therein.

terest in any of the movable property taken in execution, the Collector shall examine such party or his agent on oath or affirmation or otherwise, according to the law for the time being in force relative to the examination of witnesses, and if he see sufficient reason for so doing may stay the sale of such property.

Collector to adjudicate such claims.

CI. The Collector shall adjudicate upon such claim and make such order between the claimant and the plaintiff and defendant in the original suit as shall seem fit. In trying such claim the Collector shall be guided by the rules contained in this Act so far as they may be applicable.

Claimant failing to establish his right, liable to pay compensation to judgment creditor.

CII. If the claimant shall fail to establish his right to the property taken in execution, the Collector at the time of disposing of the case may award to the judgment-creditor against such claimant, as part of the costs such sum as he may consider sufficient to cover any loss of interest or damage which the judgment-creditor may have sustained by reason of the postponement of the sale of the property.

No appeal from order of Collector under the two last preceding Sections.

Proviso.

CIII. No appeal shall lie from any order passed by the Collector under the two last preceding Sections. But the party against whom the same may be given shall be at liberty to bring a suit in the Civil Court to establish his right at any time within one year from the date of the order; provided that, if the order be for the sale of the property, the suit shall not be for the recovery of the property, but shall be for damages against the judgment-creditor by whom the property was brought to sale.

Sale not vitiated by irregularity in publishing or conducting the same.

Proviso.

CIV. No irregularity in publishing or conducting a sale of movable property under an execution shall vitiate such sale, but this rule shall not be held to deprive any person who may sustain damage by reason of such irregularity from recovering such damage by action in the Civil Court; provided such action be brought within one year from the date of sale.

Sale of transferable tenures in execution of decrees for arrears of rent.

CV. If the decree be for an arrear of rent due in respect of an under-tenure, which by the title-deeds or the custom of the country is transferable by sale, the judgment-creditor may make applica-

tion for the sale of the tenure, and the tenure, may thereupon be brought to sale in execution of the decree, according to the rules for the sale of under-tenures for the recovery of arrears of rent due in respect thereof contained in any law for the time being in force. But no such application shall be received when a warrant of execution has been previously issued against the person or movable property of the judgment-debtor, so long as such warrant remains in force. If after sale of an under-tenure any portion of the amount decreed remains due, process may be applied for against any other property, movable or immovable, belonging to the debtor, and any such immovable property may be brought to sale in the manner provided in Section CX. of this Act.

If third party claim to be the proprietor and lawful possessor of such under-tenure, Collector to stay the sale and to enquire into and adjudicate upon the claim.

CVI. If before the day fixed for the sale of any such under-tenure as aforesaid in execution of a decree for arrears of rent due in respect of such under-tenure, a third party appear before the Collector, and allege that such third party and not the person against whom the decree has been obtained, is the proprietor of such under-tenure, and was in lawful possession of the same at the time when such decree was obtained, the Collector shall examine such party in the manner provided in Section C. for the examination of third parties, and if he see sufficient reason for so doing, and such party shall deposit in Court the amount of the decree or give sufficient security for the same, the Collector shall stay the sale and proceed to enquire into and adjudicate upon the claim. Provided that no transfer of an under-tenure which by the provisions of this Act or any other law for the time being in force is required to be registered in the Sherishteh of the Zemindar or superior tenant shall be recognized unless it have been so registered, or unless sufficient cause for non-registration be shown to the satisfaction of the Collector.

Proviso.

Mode of adjudicating such claims.

CVII. In trying such claim the Collector shall be guided by the rules contained in this Act, so far as the same may be applicable and the judgment passed by the Collector on such claim shall not be subject to appeal, but the party against whom it is given may bring a suit in the Civil Court to establish his right at any time within one year from the date of the judgment.

CVIII. If a decree is given in favor of a sharer in a joint undivided estate, dependent talook, or other similar tenure for money due to him on account of his share of the rent of an under-tenure situate in such undivided estate or talook or tenure, application for the sale of such under-tenure shall not be received unless execution shall have been first taken out against any movable property which the judgment-debtor may possess within the District in which the suit was instituted and the sale of such property, if any, shall have proved insufficient to satisfy the judgment. In such case such under-tenure, if of the nature described in Section CV. may be brought to sale in execution of the decree in the same manner as any other immovable property may be sold in execution of a decree for money under the provisions of the two next following Sections.

Execution of decrees given in favor of sharers in undivided estates or tenures.

CIX. In the execution of any decree for the payment of money under this Act not being money due as arrears of rent of a saleable under-tenure, if satisfaction of the judgment cannot be obtained by execution against the person or movable property of the debtor within the District in which the suit was instituted, the judgment-creditor may apply for execution against any immovable property belonging to such debtor.

In all cases of decrees for money, if judgment cannot be satisfied by sale of debtor's movable property, execution may be had against his immovable property.

CX. If the immovable property against which execution is applied for be a house or other building, process shall be issued in the same manner as for the attachment and sale of movable property, and the provisions of Sections XCVIII. and XCIX. shall be applicable to the execution of such process. If the property be a saleable under-tenure it shall be sold under the provisions of the law for the time being in force applicable to the sale of such under-tenures for demands other than those of arrears of rent due in respect thereof. If the property be an estate or a share of an estate, it shall be sold under the rules in force for the sale of estates for the recovery of demands recoverable by the same process as arrears of land revenue.

Mode of executing process if immovable property be a house or other building.

If it be a saleable under-tenure.

If it be an estate or a share of an estate.

CXI. If, before the day fixed for the sale of any immov-

Consequence of objection being offered before the sale of any immovable property.

able property as aforesaid, objection shall be offered to the sale on the ground of such property not belonging to the judgment-debtor, and consequently not being liable to be sold in execution of a decree against him, the Collector shall examine the party making the objection in the manner prescribed in Section C. for the examination of third parties, and if satisfied that there is sufficient ground for so doing, shall stay the sale and proceed to enquire into and adjudicate upon the objection, in the same manner, and subject to the same right of suit by the party against whom judgment may be given, as is provided in Section CVII.

Produce of the land to be held hypothecated for the rent.

Arrears of rent may be recovered by distraint under the following rules.

CXII. The produce of the land is held to be hypothecated for the rent payable in respect thereof; and when an arrear of rent as defined in Section XX. of this Act, is due from any cultivator of land, the zemindar, lakerajdar, farmer, dependent talookdar, under-farmer, or other person entitled to receive rent immediately from such cultivator, instead of bringing suit for the arrear as hereinbefore provided, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due under the following rules. Provided always that, when a cultivator has given security for the payment of his rent, the produce of the land for the rent of which security has been given, shall not be liable to distraint. Provided also that no sharer, in a joint estate, dependent talook, or other tenure, in which a division of lands has not been made amongst the sharers shall exercise the power of distraint otherwise than through a manager authorized to collect the rents of the whole estate, talook, or tenure, on behalf of all the sharers in the same. Provided further that in putteedaree estates situated in districts under the Government of the Lieutenant-Governor of the North-Western Provinces distraint shall be made only through a lumberdar.

Cultivators who have given security to be exempt from distraint.

No distraint in certain cases.

CXIII. Distraint shall not be made for any arrear which has been due for a longer period than one year; nor for the recovery of any sum in excess of the rent payable for the land in the preceding year unless

a written engagement for the payment of such excess has been executed by the cultivator.

Power of distraint to be exercised by managers under the Court of Wards, &c.

CXIV. The power of distraint vested by Section CXII. in Zemindars and other persons entitled to receive rent from cultivators of land, may be exercised by managers under the Court of Wards, Surburakars, and Tehsildars of estates held under khas management, and other persons lawfully entrusted with the charge of landed property; and also by the naibs, gomashtahs, and other agents employed by any such persons as aforesaid in the collection of rent if expressly authorized by power of attorney in that behalf. Provided that if any illegal act is committed by any such Naib, Gomashtah, or other agent under color of the exercise of the said power, the person employing such agent shall be liable, as well as the agent, for any damages accruing by reason of such act.

Proviso.

Standing crops and crops gathered but not stored liable to distraint.

CXV. Standing crops and other ungathered products of the earth, and crops or other products when reaped or gathered, and deposited in any threshing floor or place for treading out grain or the like, whether in the field or within a homestead, may be distrained by persons invested with the powers of distraint under the provisions of this Act. But no such crops or products other than the produce of the land in respect of which an arrear of rent is due or of land held under the same engagement, and no grain or other produce after it has been stored by the cultivator, and no other property whatsoever, shall be liable to distraint under this Act.

Defaulter to be served with a written demand, &c, before or at the time of distraint.

CXVI. Before or at the time when distraint is made under this Act, the distrainer shall cause the defaulter to be served with a written demand for the amount of the arrear, together with an account exhibiting the grounds on which the demand is made. The demand and account shall, if practicable, be served personally on the defaulter, or if he abscond or conceal himself so that they cannot be so served, shall be affixed at his usual place of residence.

CXVII. Unless the amount of the demand is immediately

Distress to be proportionate to the arrear if not paid or tendered.

paid or tendered, the distrainer may distrain property as aforesaid of value proportionate to the amount of the arrear with costs of the distress; and shall prepare a list or description of the said property, and deliver a copy of the same to the owner, or if he be absent affix it at his usual place of residence.

List of property to be distrained, to be served on owner.

CXVIII. Standing crops and other ungathered products may notwithstanding the distraint, be reaped and gathered by the cultivator, and may be stored in such granaries or other places as are commonly used by him for the purpose. If the cultivator neglect to do so, the distrainer shall cause the said crops or products to be reaped or gathered, and in such case shall store the same either in such granaries or other places as aforesaid, or in some other convenient place in the neighbourhood. In either case the distrained property shall be placed in the charge of some person appointed by the distrainer for the purpose. Crops or products which from their nature do not admit of being stored, may be sold before they are cut or gathered, under the rules hereinafter provided; but in such case the distraint shall be made at least twenty days before the time when the crops or products or any part of the same would be fit for cutting or gathering.

Standing crops &c. when attached, to be reaped and stored by the cultivator, or if he neglect to do so, by the distrainer.

CXIX. If a distrainer shall be opposed, or shall apprehend resistance, and shall desire to obtain the assistance of a public Officer, he may apply to the Collector, and the Collector may, if he thinks necessary, depute an Officer to support the distrainer in making the distraint.

Distrainer may apply for aid to the Collector upon occasion of resistance made or apprehended.

CXX. When any person, empowered to distrain property under Section CXI. or Section CXII. shall employ a servant or other person to make the distress, he shall give to such servant or person a written authority (which may be on plain paper) for the same, and the distress shall be made in the name and on the responsibility of the person giving such authority.

Person empowered to distrain may give written authority to their servants to do so.

CXXI. If at any time after property has been distrained

Distress to be withdrawn if defaulter tender payment of arrear and expenses of attachment prior to the day of sale.

and prior to the day fixed for its being put up to sale as hereinafter provided, the owner of the property shall tender payment of the arrear demanded of him and of the expenses of the distress, the distrainer shall receive the same, and shall forthwith withdraw the distress.

Application for sale.

CXXII. Within five days from the time of the storing of any distrained crops or products, or if the crops or products do not, from their nature, admit of being stored, within five days from the time of making the distress, the distrainer shall apply for sale of the same to the Civil Court Ameen, or other Officer authorized to sell property in satisfaction of decrees of the Civil Court within the circle in which the distrained property is situate or to such other public Officer as the local Government shall appoint for the purpose.

Form of application.

CXXIII. The application shall be in writing, and shall contain an inventory or description of the property distrained, the name of the defaulter and his place of residence, the amount due, and date of the distress. and the place in which the distrained property is deposited.

Cost of notice upon defaulter to be deposited by distrainer.

Together with the application, the distrainer shall deliver to the Civil Court Ameen or other Officer the amount necessary for the service of a notice upon the defaulter as hereinafter provided.

Procedure by Civil Court Ameen, &c. on receipt of application.

CXXIV. Immediately on receipt of the application the Civil Court Ameen or other Officer shall transmit a copy of it to the Collector; and shall serve a notice (which shall be in the form (G) contained in the Schedule to this Act, or to the like effect) on the person whose property has been distrained, requiring him either to pay the amount demanded, or to institute a suit to contest the demand before the Collector within the period of fifteen days from the receipt of the notice. He shall at the same time send to the Collector for the purpose of being put up in his Office, and if in the North-Western Provinces in the Cutcherry of the Tuhseeldar, a proclamation fixing a day for the sale of the distrained property, which shall not be less than twenty days from the date of the application; and shall deliver a copy

of the proclamation to the peon charged with the service of the notice, to be put up by him in the place where the distrained property is deposited. The proclamation shall contain a description of the property, the demand for which it is to be sold, and the place where the sale is to be held.

Ameen to suspend sale on receipt of Collector's certificate of the institution of a suit.

CXXV. If a suit shall be instituted before the Collector in pursuance of the aforesaid notice, the Collector shall transmit to the Civil Court Ameen or other Officer, or if so requested shall deliver to the owner of the distrained property, a certificate of the institution of such suit; and on such certificate being received by or presented to the Ameen or other Officer, he shall suspend proceedings in regard to the sale of the distrained property.

Suit to contest distrainer's demand before issue of notice of sale.

CXXVI. A person whose property has been distrained in the manner hereinbefore provided, may institute a suit to contest the demand of the distrainer immediately after the distraint of his property, and before the issue of notice of sale. When such suit is instituted, the Collector shall proceed in the manner prescribed in the last preceding Section. If thereafter application for the sale of the property is made to the Civil Court Ameen or other Officer, he shall transmit a copy of the application to the Collector, and suspend further proceedings pending the decision of the case.

Distress to be withdrawn on receipt of Collector's certificate that the owner has executed a bond with security to pay amount of decree with interest and costs.

CXXVII. The person whose property has been distrained may, at the time of instituting any such suit as aforesaid, or at any subsequent period, execute a bond with security binding himself to pay whatever sum may be adjudged to be due from him with interest and costs of suit, and when such bond is executed the Collector shall give to the owner of the property a certificate to that effect, or if so requested shall serve the distrainer with notice of the same; and upon such certificate being presented to the distrainer by the owner of the property or served on him by order of the Collector the property shall be released from distraint.

CXXVIII. On the expiration o fthe period fixed in the

On expiration of period fixed in the proclamation of sale, if institution of suit to contest distrainer's demand have not been certified, sale may be proceeded with.

proclamation of sale, if the institution of a suit to contest the demand of the distrainer has not been certified to the Civil Court Ameen or other Officer in the manner hereinbefore provided, he shall, unless the said demand, with such costs of the distress as shall be allowed by him, be discharged in full, proceed to sell the property or such part of it as may be necessary in the manner following.

Place and manner of sale.

CXXIX. The sale shall be held at the place where the distrained property is deposited, or at the nearest gunge, bazar, haut, or other place of public resort, if the Civil Court Ameen or other Officer should be of opinion that it is likely to sell there to better advantage. The property shall be sold by public auction in one or more lots as the Officer holding the sale may think advisable, and if the demand with the costs of distress and sale be satisfied by the sale of a portion of the property, the distress shall be immediately withdrawn with respect to the remainder.

If fair price be not offered, sale may be postponed to another day, and shall be then completed at whatever price may be offered.

CXXX. If on the property being put up for sale a fair price in the estimation of the Officer holding the sale be not offered for it, and the owner of the property or some person authorized to act on his behalf apply to have the sale postponed until the next day, or the next market day if a market be held at the place of sale, the sale shall be postponed until such day and shall be then completed whatever price may be offered for the property.

Payment of purchase money.

CXXXI. The price of every lot shall be paid for in ready money at the time of sale or as soon after as the Officer holding the sale shall think necessary; and in default of such payment the property shall be put up again and sold. When the purchase money has been paid in full, the Officer holding the sale shall give the purchaser a certificate describing the property purchased by him and the price paid.

Proceeds of sale.

CXXXII. From the proceeds of the sale of distrained property the Officer holding the sale shall make a deduction at the rate of one anna in the Rupee on account of the costs of the sale, and shall transmit

the amount to the Collector in order that it may be credited to Government. He shall then pay to the distrainer the expenses incurred by the distrainer on account of the distress and of the issue of the notice and proclamation of sale prescribed in Section CXXIV. to such amount as, after examination of the statement of expenses furnished by the distrainer, he shall think proper to allow. The remainder shall be applied to the discharge of the arrear for which the distraint was made with interest thereon up to the day of sale, and if there be any overplus it shall be delivered to the person whose property shall have been sold.

Officers holding sales prohibited from purchasing.

CXXXIII. Officers holding sales of property under this Act, and all persons employed by or subordinate to such Officers, are prohibited from purchasing either directly or indirectly any property sold by such Officers.

All irregularities to be reported to the Collector.

CXXXIV. Civil Court Ameens and other Officers as aforesaid are required to bring to the notice of Collectors any material irregularities committed by distrainers under color of this Act; and if in any case, on proceeding to hold a sale of property, the Civil Court Ameen or other Officer shall find that the owner of the property has not received due notice of the distress and intended sale, he shall postpone the sale and report the case to the Collector, and the Collector shall direct the issue of another notice and proclamation of sale under Section CXXIV. or pass such other order as he may think proper.

Officer not to proceed to sale, if he find that defaulter has not received due notice.

Recovery of expenses if Ameen proceeds to place of sale and no sale takes place.

CXXXV. When a Civil Court Ameen or other Officer has proceeded to any place for the purpose of holding a sale and no sale takes place either for the reason stated in the last preceding Section, or because the demand of the distrainer has been previously satisfied, no intimation of such satisfaction having been given by the distrainer to the Civil Court Ameen or other Officer, the charge of one anna in the Rupee on account of expenses shall be leviable and shall be calculated on the estimated value of the distrained property. If the demand of the distrainer be not satisfied until the day fixed for the sale, the charge for ex-

penses shall be paid by the owner of the property and may be recovered by the sale of such portion thereof as may be necessary. In every other case it shall be paid by the distrainer and may be recovered by attachment and sale of the property of the distrainer under the warrant of the Collector. Provided always that in no case shall a larger amount than ten Rupees be recoverable under this Section.

Proceedings of Civil Court Ameens, &c. subject to revision and orders of Collectors.

CXXXVI. All proceedings under this Act of the Civil Court Ameens and other Officers as aforesaid shall be subject to the revision and order of the Collectors, and the Collectors, with the sanction of the Boards of Revenue, may require the submission of such periodical reports and statements of business performed by the Civil Court Ameens and other Officers as may be thought necessary.

Second proclamation of sale.

CXXXVII. When a suit has been instituted to contest the demand of a distrainer and the property has not been released on security, if the demand or any portion of it shall be adjudged to be due, the Collector shall issue an order to the Civil Court Ameen or other Officer authorizing the sale of the property, and on the application of the distrainer, which shall be made within five days from the receipt of such order by the Civil Court Ameen or other Officer, such Ameen or Officer shall publish a second proclamation in the manner prescribed in Section CXXIV. fixing another day for the sale of the distrained property, which shall not be less than five nor more than ten days from the date of the proclamation; and unless the amount adjudged to be due with the costs of distress be paid intermediately, shall proceed to sell the property in the manner hereinbefore provided.

Procedure after institution of suit to contest distrainer's demand.

CXXXVIII. In all suits instituted to contest the demand of distrainer, the distrainer shall be required to prove the arrear in the same manner as if he had himself brought suit for the amount under the foregoing provisions of this Act. If the demand or any part thereof is found to be due, the Collector shall make a decree for the amount in favor of the distrainer, and the amount may be recovered by sale of the property as provided in the last preceding Section if the distress has not been withdrawn, and if any

balance remain due after such sale by execution of the decree against the person and any other property of the defaulter, or if the property have been released on security by execution of the decree against the person and property of the defaulter and of his surety. If on the other hand the distraint is adjudged to be vexatious or groundless, Collector, besides directing the release of the distrained property, may award such damages in favor of the plaintiff as the circumstances of the case shall seem to require.

Any person, whose property has been distrained for arrears of rent alleged to be due from another, may institute a suit against the distrainer, &c.

CXXXIX. If any person shall claim as his own, property which has been distrained for arrears of rent alleged to be due from any other person, such person may institute a suit against the distrainer and such other person, to try the right to the property, in the same manner and under the same conditions as to the time of instituting the suit and to the consequent postponement of sale, as a person whose property has been distrained for an arrear of rent alleged to be due from him may institute a suit to contest the demand. When any such suit is instituted the property may be released upon security being given for the value of the same. If the claim is dismissed the Collector shall make an order for the sale of the property or the recovery of the value thereof, as the case may be, for the benefit of the distrainer. If the claim is upheld, the Collector shall decree the release of the distrained property with costs, and such damages (if any) as the circumstances of the case may seem to require. Provided always that no claim to any produce of land, liable to distraint under this Act, which at the time of the distress may have been found in the possession of a defaulting cultivator, whether such claim be in respect of a previous sale, mortgage, or otherwise, shall bar the prior claim of the person entitled to the rent of the land, nor shall any attachment in execution of a judgment of any Civil Court prevail against such prior claim.

Proviso.

Procedure if distrainer's right to distrain be disputed.

CXL. If in any case in which property has been distrained for an arrear of rent and a suit has been instituted to contest the demand, the right to distrain for such arrear is claimed by or on behalf of any person other than the distrainer on the ground of such other person being actually and in good faith in the receipt

and enjoyment of the rent of the land, such other person shall be made a party to the suit, and the question of the actual receipt and enjoyment of the rent by such other person before and up to the time of the commencement of the suit shall be enquired into, and the suit shall be decided according to the result of such enquiry. Provided always that the decision of the Collector shall not affect the right of either party who may have a legal title to the rent of the land, to establish his title by suit in the Civil Court if instituted within one year from the date of the decision.

Persons prevented from suing in time to save their property from sale, may sue for damages.

CXLI. If any person, whose property has been distrained for the recovery of a demand not justly due, or of a demand due or alleged to be due from some other person, is prevented by any sufficient cause from bringing suit to contest the demand or to try the right to the property as the case may be within the period allowed by Sections CXXIV. and CXXXIX. and his property is in consequence brought to sale, he may nevertheless institute a suit under this Act to recover damages for the illegal distress and sale of his property.

Also persons aggrieved by any illegal act of distrainer.

CXLII. If any person empowered to distrain property or employed for the purpose under a written authority by a person so empowered, shall distrain or sell, or cause to be sold, any property for the recovery of an arrear of rent alleged to be due, otherwise than according to the provisions of this Act, or if any distrained property shall be lost, damaged, or destroyed by reason of the distrainer not having taken proper precaution for the due keeping and preservation thereof, or if the distraint shall not be immediately withdrawn when it is required to be withdrawn by any provision of this Act, the owner of the property may institute a suit under this Act to recover damages for any injury which he may have thereby sustained.

Unlawful distraint.

CXLIII. If any person not empowered to distrain property under Sections CXII. and CXIV. of this Act, nor employed for the purpose under a written authority by a person so empowered, shall distrain or sell or cause to be sold any property under color of this Act, the owner of the property may institute a suit under this Act to recover damages from such person for any injury which he may have

sustained from the distraint or sale. The said person shall be held to have committed criminal trespass, and shall be subject to the penalties for that offence in addition to any damages which may be awarded against him in such suit.

Time for commencing suits for damages

CXLIV. Provided always that any suit which may be instituted under any of the last three Sections shall be commenced within three months from the date of the occurrence of the cause of action.

Resistance of distraint.

CXLV. If any person shall resist a distraint of property duly made under this Act, or shall forcibly or clandestinely remove any distrained property, the Collector upon complaint being made within fifteen days from the date of such resistance or removal, shall cause the person accused to be arrested, and if the offence be proved and the offender be the owner of the property, shall order him to be imprisoned in the Civil jail for six months, or until the whole arrear due to the distrainer with all expenses and costs shall sooner be paid or levied by distress and sale of the property of the offender under warrant of the Collector. If the person convicted of the offence be any other than the owner of the property, he shall make good to the distrainer the value of the same, and shall further be liable to a fine not exceeding one hundred Rupees, or in default of payment thereof to imprisonment for a period not exceeding two months.

Service of process.

CXLVI. Every process issued by a Collector under this Act shall be under the seal and signature of the Collector, and shall be served or executed by the Nazir or by such other Officer as the Collector may direct at the cost of the party at whose instance it issued. The amount of such cost, and, in the case of summons to a witness, any sum required for the travelling expenses of such witness, shall be deposited in Court before the process is issued. Provided that if in any case the Collector is satisfied that a party is unable to pay the cost of any necessary process, he may direct such process to be served free of charge.

Resistance of process.

CXLVII. Any resistance or opposition to the lawful process of a Collector under this Act may be punished by the Collector according to the provisions of the law for the time being in force for the punishment of resistance or opposition to the processes of the Courts of Civil

justice. When in any such case the offender is not present in Court, the Collector may summon him to answer to the charge, and if after due service of the summons he fail to attend, may issue a warrant for his apprehension. Orders passed by Collectors under this Section shall not be deemed to be orders relating to the trial of suits or to the execution of decrees within the meaning of Section CLI.

Collector competent to hold a Court in any part of his jurisdiction.

CXLVIII. It shall be competent to the Collector to hold a Court for hearing and determining suits under this Act in any place within the limits of his District or local jurisdiction, provided that every hearing and decision shall be in open Court, and that the parties to the suit or their authorized agents shall have had due notice to attend at such place.

Proviso.

Agents or mookhtars.

CXLIX. Any person may practise as an agent or mookhtar in a Court held by a Collector under this Act without any formal licence from the Collector. But it shall be competent to the Collector to prohibit any person, who has been convicted by a competent Court of a criminal offence, or who has been found guilty of fraudulent or dishonest conduct in the discharge of his duty as agent or mookhtar, to practise as an agent or mookhtar in his Court. When any agent or mookhtar is charged by the Collector or any other person with fraudulent or dishonest conduct in the discharge of his duty, the Collector shall proceed in the manner prescribed in Section IV. Act XVIII. of 1852, or any other law for the time being in force for the trial of charges against pleaders.

Powers of Deputy Collectors.

CL. All the powers vested in the Collector by the preceding Sections of this Act may be exercised by any Deputy Collector in cases referred to him by a Collector; and in all cases without such reference, by any Deputy Collector placed in charge of any Sub-division of a District; and all applications and reports allowed or required by this Act to be made to the Collector may be made to any Deputy Collector having such local jurisdiction.

Collectors and Deputy Collectors to be subject to general di-

CLI. In the performance of their duties under this Act the Collectors and Deputy Collectors shall be subject to the general direction and control of the

rection and control of the Commissioners and the Boards of Revenue.

Commissioners and the Boards of Revenue; and the Deputy Collectors shall be subject to the direction and control of the Collectors to whom they are subordinate. All orders passed by a Collector under this Act, not being judgments in suits or orders passed in the course of suits and relating to the trial thereof or orders passed after decree and relating to the execution thereof, shall be appealable to the Commissioner; and all such orders passed by a Deputy Collector shall be appealable to the Collector; but no judgment of a Collector or Deputy Collector in any suit, and no order of a Collector or Deputy Collector passed in any suit and relating to the trial thereof, or after decree and relating to the execution thereof, shall be open to revision or appeal otherwise than as expressly provided in this Act.

No appeal from orders of Collectors and Deputy Collectors in certain cases.

CLII. Every appeal against the order of a Collector shall be presented to the Commissioner within thirty days, and every appeal against the order of a Deputy Collector shall be presented to the Collector within fifteen days from the date of the order. Orders passed in appeal by a Commissioner or a Collector shall not be open to any further appeal, but the Board of Revenue or the Commissioner may call for any case and pass such orders thereon as they may think proper.

Time for presenting appeals from orders.

CLIII. In the suits under Clauses 2, 4, and 7 of Section XXIII. and under Section XXIV. of this Act, tried and decided by a Collector, if the amount sued for or the value of the property claimed does not exceed one hundred Rupees, the judgment of the Collector shall be final, and not open to revision or appeal except as hereinafter provided, unless in any such suit a question of right to enhance or otherwise vary the rent of a ryot or tenant, or any question relating to a title to land, or to some interest in land as between parties having conflicting claims thereto, has been determined by the judgment, in which case the judgment shall be open to appeal in the manner provided in Sections CLX. and CLXI. of this Act.

No appeal from any decree of Collector for money below 100 Rupees unless the decision involve some question of right to enhance rent or some question relating to a title to land.

CLIV. In suits in which the judgment of the Collector is

In suits not open to appeal, Collector may grant a re-hearing upon the discovery of new evidence, &c.

final as provided in the last preceding Section, the Collector may, upon the application of either party, if preferred within thirty days from the date of the decision, order the re-hearing of a suit, upon the ground of the discovery of new evidence or matter material to the issue of the case which the applicant had no knowledge of, or could not produce at the time of trial.

Appeal from decision of Deputy Collector.

CLV. When any such suit as aforesaid, in which if tried and decided by a Collector the judgment of the Collector would be final, is tried and decided by a Deputy Collector, an appeal from the judgment of the Deputy Collector shall lie to the Collector.

Petition of appeal to be on stamp paper, &c.

CLVI. The petition of appeal shall be written on stamp paper of eight annas value and shall be presented to the Collector within fifteen days from the date of the decree, provided that such time as may be requisite for procuring a copy of the decree appealed against shall not be reckoned as part of the fifteen days.

Procedure in appeal.

CLVII. The Collector shall fix a day for hearing the appeal, and shall cause notice of the same to be served on the respondent in the manner hereinbefore prescribed for the service of summons. If on the day fixed for hearing the appeal, or any other day to which the hearing may be adjourned, the appellant shall not appear in person or by an agent, the appeal shall be dismissed for default. If the appellant shall appear and the respondent shall not appear in person or by an agent, the appeal shall be heard *ex parte*.

Re-admission of appeal.

CLVIII. If an appeal be dismissed for default of prosecution the appellant may within fifteen days from the date of the dismissal apply to the Collector for the re-admission of the appeal, and if it shall be proved to the satisfaction of the Collector that the appellant was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the Collector may re-admit the appeal.

Judgment in appeal

CLIX. After hearing the appeal the Collector shall give judgment in the manner hereinbefore prescribed for giving judgment in original suits, and the judgment of the Collector shall be final.

CLX. In all suits other than those in which when tried and

In what suits appeal to lie to Zillah Judge.

decided by a Collector the judgment of the Collector is declared to be final or when tried and decided by a Deputy Collector an appeal is allowed to the Collector, an appeal from the judgment of the Collector or Deputy Collector shall lie to the Zillah Judge; unless the amount or value in dispute exceed five thousand Rupees, in which case the appeal shall lie to the Sudder Court.

To Sudder Court.

CLXI. The petition of appeal shall be written on the stamp paper prescribed for appeals from the subordinate Civil Courts with reference to the amount or value of the property involved in the appeal, and the rules in force in regard to the time within which appeals from the decisions of such Courts may be received, and to the manner in which such appeals are heard and determined, and to all proceedings which may be had in respect of such appeals, shall be applicable to appeals to the Zillah Judge or Sudder Court under this Act.

Rules regarding presentation and hearing of appeals.

CLXII. Suits under this Act shall be preferred in the Revenue Office of the District, or when a Sub division of a District has been placed under the jurisdiction of a Deputy Collector, in the Revenue Office of the Sub-division in which the cause of action shall have arisen. Provided always that the Collector may withdraw any suit from any Deputy Collector and try it himself, or refer it to another Deputy Collector. If the lands comprised in any talook, farm, or other tenure, or any lands held under one lease or engagement or at one entire rent in respect of which arrears of rent may be due, are situated in more than one District or Sub-division, the District or Sub-division in which the greater part of such lands is situate shall be held to be the District or Sub-division in which the cause of action has arisen; and if any question shall be raised respecting the District or Sub-division in which the greater part of the lands is situate, the Board of Revenue, or if all the lands be situate in one District the Collector of the District shall decide the question, and such decision shall be conclusive on the point of jurisdiction.

Suits to be preferred in the Revenue Office of the District or Sub-division in which the greater part of the land is situate.

CLXIII. Except as provided in the last preceding Section,

Except as above, Collector not to exercise jurisdiction in respect to lands situate beyond his District.

no Collector shall exercise any jurisdiction under this Act in respect to any lands situate beyond the limits of the District to which he is appointed, by reason of such lands forming part of an estate the revenue of which is paid into the Treasury of the said District.

Deputy Collector entrusted with Police functions, not to exercise judicial powers under this Act.

CLXIV. No Deputy Collector appointed under Regulation IX. of 1833 of the Bengal Code, shall exercise any judicial powers or other jurisdiction under this Act if entrusted with any Police functions.

What powers to be exercised by Assistants to Collectors.

CLXV. Assistants to Collectors shall not exercise any powers under this Act unless invested by Government with the powers of Deputy Collectors, in which case they may exercise the powers hereby assigned to Deputy Collectors.

Saving of rights of proprietors in respect of Putnee Talooks, &c. under Regulation VIII. 1819.

CLXVI. Nothing contained in this Act shall be held to affect the right vested in proprietors of land under direct engagements with Government, of bringing to sale for arrears of rent Putnee Talooks and other similar tenures under the provisions of Regulation VIII. 1819.

Commencement of Act.

CLXVII. This Act shall commence and have effect from and after the 1st day of August 1859.

"Civil Jail."

CLXVIII. The words "Civil Jail" as used in this Act shall include the Civil Jail of the Zillah and any place appointed by the Executive Government for the confinement of prisoners by any Court constituted under this Act.

"Nazir."

The word "Nazir" shall include any Officer of a Court authorized to serve or execute its process.

Number.

Unless there be something in the subject or context repugnant to such construction, words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number, and words importing the masculine gender shall include females.

Gender.

SCHEDULE.

A.

Form of Summons to Defendant.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

[*Name, description, and address of Plaintiff.*]

C. D., Defendant.

[*Name, description, and address of Defendant.*]

Whereas the said A. B. has brought a claim against you in this Court for (*here specify particulars of claim as given in the statement,*) *you are hereby required to appear in person in this Court on the day of* [*if not specially required to appear in person, state, in person or by an agent who has personal knowledge of the subject or who shall be accompanied by a person who has such knowledge*] to answer the abovenamed plaintiff, and you will bring with you (or send by your agent) [*here mention any document the production of which may be required by the plaintiff*] which the plaintiff desires to inspect, and all documents on which you may intend to rely in support of your defence. You will also bring with you your witnesses, if they are willing to attend without issue of process.

B.

Form of Warrant of Arrest.

No. (of suit) dated

In the Court of

A. B., Plaintiff.

C. D., Defendant.

To the Nazir of the Court of the Collector of——

Whereas the plaintiff in this suit has obtained an order from the Court for the arrest of the defendant, you are hereby commanded to bring the defendant before the Court on or before the day of to be dealt with according to law.

Dated this day of 185

C.

FORM OF NOTICE TO ACCOMPANY SUCH WARRANT.

In the Court of

A. B , Plaintiff.

[*Name, description, and address of Plaintiff.*]

C. D., Defendant,

[*Name, description, and address of Defendant.*]

Whereas the said A. B. has brought a claim against you in this Court for *(here specify particulars of claim as given in the statement)* and has obtained a warrant for your arrest, you are hereby required, unless you admit the claim, to bring with you to the Court all documents on which you may intend to rely in support of your defence.

D.

FORM OF SECURITY BOND FOR APPEARANCE OF DEFENDANT.

Whereas A. B. plaintiff has instituted a suit in the Court of the Collector of against C. D. defendant, and the said C. D. has been required to give security for his appearance at any time when called on while the suit is depending and until execution of the decree, I. E. F., hereby declare myself surety for the said C. D.'s appearance as aforesaid, and in case of his making default in such appearance I engage to pay any sum for the payment of which the said C. D. may be liable under the decree. [*If the suit be for the delivery of papers or accounts, specify some sum to be fixed by the Collector.*]

E.

WRIT OF EXECUTION AGAINST THE PERSON.

A. B., Plaintiff.

C. D., Defendant.

To the Nazir of the Court of the Collector of——

Whereas the said C. D. was directed by a decree of this Court, under date the day of 185 , to pay to A. B. the sum of and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to apprehend the said C. D., and to bring him with all

convenient speed before this Court to be dealt with according to law.

F.

Writ of Execution against the Effects.

A. B. Plaintiff.
C. D. Defendant.

To the Nazir of the Court of the Collector of —

Whereas C. D. was directed by a decree of this Court, under date the day of 185 , to pay to A. B. the sum of , and for costs of suit, amounting to , and whereas the said C. D. has omitted to pay the same, you are hereby commanded to levy the said sum of , and the sum of for costs of executing this process, by seizure and sale of such movable property of the said C. D. as (is described in the list annexed, and) [*if no list is furnished, these words to be omitted*] shall be pointed out to you by the judgment-creditor or his agent; and you are hereby ordered to sell such property of the said C. D., on some convenient day not being less than ten nor more than fifteen days from the day of seizure, unless the amount leviable as aforesaid shall be sooner paid; and you are hereby commanded to certify to me what you shall do by virtue of this warrant.

G.

Form of Notice to owner of Distrained Property.

Office of Commissioner for sale of distrained property.

A. B., Distrainer.

[*Name, description, and address of the owner of the property.*]

Whereas the said A. B. has applied to have the distrained property specified below sold for the recovery of alleged to be due to him as arrears of rent, you are hereby required either to pay the said sum to the said A. B., or to institute a suit before the Collector to contest the demand within fifteen days from the receipt of this notice, failing which the property will be sold.

Dated this day of 185

BENGAL.—ZEMINDARY REVENUE SALE LAW.

ACT No. XI. OF 1859.

[*Passed on the 4th March*, 1859.

Recites the objects of the Act.

1. Repeals Regulation 10, 1818, and Act I. 1845.

2. Any kist of one month remaining unpaid on the 1st of the following month, to be considered an arrear of revenue.

3. Board of Revenue to fix dates at which arrears shall be paid up, in default of which estates shall be sold to highest bidder. Board to give notice of days fixed for payment.

4. In Sylhet, Collector may be authorized to proceed first by distress and sale of personal property of defaulters.

5. No estate to be sold for arrears of specified kinds until after notification in the district, &c. of specified particulars.

6. Sale officer after expiration of last day for payment, to advertize estates in arrear by specified notification in his own office, &c. and sale shall take place accordingly, except as specified.

7. After notification of an estate for sale, proclamation to be made to ryots and renters not to pay their rents to defaulting proprietor.

8. Sale not to be barred or rendered void by alleged cross claim of defaulter against government, unless claim be admitted, &c.

9. Collector may up to sunset of last day of payment, receive from any person not being the defaulting proprietor a deposit of the arrear, for protection of his own interest, &c.

10, 11. Recorded sharer of joint estate may apply for leave to pay his share of the revenue separately; which application the Collector shall publish, &c. and if not objected to by other recorded shares, application to be granted; and (11) the same application may be made if his share consists of a specific portion of the land of the estate.

12. If the application is objected to on specified grounds by any other recorded sharer, the Collector shall refer the parties to the Civil Court.

13, 14. After separate account of Revenue is opened for shares, only those shares to be put up for sale, which are in arrear; but the several shares still to constitute one integral estate; and (14) if the shares put up do not sell for the amount in arrear, the sale is to be stopt, and the whole estate be sold by auction, unless within 10 days the other sharers pay the arrear and so become the purchasers.

15, 16. Recorded proprietor or co-partner may deposit Government securities for arrear, and Collector may realize the securities, and such deposit shall exempt the estate from sale; but (16) person making deposit may withdraw it, or revoke the pledge at any time.

17, 18. Exempts specified estates from sale law: e. g. estates under Court of Wards, estates of minors notified to Court of Wards, and estates held

under attachment by Revenue Officer, &c.; and (18) Collector may exempt any estate in arrear from sale at any time before sale has commenced; and Board of Revenue may exempt in like manner.

19, 20. Sales shall ordinarily be made in land Revenue Office at Sudder Station; but (20) if from sickness, occurrence of a holiday, &c. sale cannot be made on day fixed, sale officer may adjourn it giving specified notice.

21. Estates to be put up in the order in which they stand in the sale register.

22, 23, 24. Purchaser to deposit 25 per cent. on the price in cash or specified securities; and (23) the full amount shall be made good on or before the 30th day from the sale, and in default the deposit shall be forfeited, and if loss occur on re-sale, first purchaser to be liable for it as an arrear of Revenue; such re-sale (24) to be notified, but not until specified time, and re-sale to be under same rules in other respects as first sale.

25, 26. Appeal may be made to the Commissioner against any sale within 15 days, and he may annul the sale for irregularity, &c. ordering compensation in specified cases; and (26) Commissioner may on ground of hardship or injustice suspend his own proceedings on an appeal, and represent the case to the Board of Revenue, who if they see cause to annul the sale may represent it to the local government, &c.

27—30. Sales not appealed against within the allowed time and sales confirmed on appeal to be final and conclusive, and (28) thereupon the Sale officer shall deliver certificate of title to the purchaser and certify the change of proprietor; and (29) shall order possession to be given; and (30) thenceforward the certified proprietor shall be answerable for the government revenue.

31. Proceeds of sale to be applied in payment (1) of arrears of revenue, (2) of registered claims against estate, (3) residue to be distributed among recorded proprietors, or (4) held for creditor proceeding in Civil Court.

32. In case of annulment of sale, deposit to be returned to purchaser, with interest.

33. No sale to be annulled except on ground of its having been made contrary to provisions of this Act and of substantial injury by reason of the irregularity; nor unless suit be instituted within a year, nor by any person who has received any of the purchase money: but sufferer may sue for damages.

34. Party obtaining decree of Civil Court for annulment of sale, must apply for execution within six months afterwards, and decree-holder must repay purchase money within six months after that, or lose benefit of the annulment of the sale.

35. In the event of the annulment of sale, &c. purchase money to be refunded with interest, &c.

36. No suit to lie against certified purchaser as benami purchaser for another.

37. Auction purchaser to acquire an estate free from all incumbrances and all under-tenures except four classes specified.

38, 39. Establishes rules for the registration of talookdaree and other similar tenures created since the time of settlement: and (39) there shall be two sets of registers, a common register and a special register, the former to secure the specified tenures against any purchaser at revenue sale except the Government, the latter against the Government also.

40. Application for registry of tenure must be to Collector, must state the kind of registry desired, and specify particulars respecting the property.

41. If the application is for common registry, the Collector shall serve notice in specified manner on recorded proprietors, and shall register the tenure if no objection made within 30 days, and if probable ground of objection be shown shall refer the parties to the Civil Court.

42. If application is for special registry, Collector shall besides giving the said notice to recorded proprietor make inquiry in regard to the security of the revenue, and if satisfied on that point shall report to the Commissioner, on whose confirmation the tenure shall be specially registered in case no probable ground of objection is made by proprietor or, in that case parties are to be referred to Civil Court.

43. Admits to privilege of being registered leases of lands, &c. whereon dwelling houses, &c. have been erected, at option of the lease-holders.

44. Admits to privilege of being specially registered only, the first and second classes of tenures specified in s. 37; and prescribes the form of application for registration: but registration not to be necessary for protection of such tenures.

45. Application for registration of existing tenures must be made within three years after passing of this Act, and of tenures hereafter created within three months after creation of the tenure.

46. Actual expenses of survey, &c., incurred on application for special registry to be borne by applicant and prepaid if so required:

47. No Civil Court shall have power to order the revenue authorities to specially register any tenure.

48. Person deeming himself wronged by registration of tenure, may bring suit for cancelment of register.

49. Subordinate revenue authorities to proceed in the registration according to general instructions from revenue authorities; and orders of Commissioner for special registry shall be open to revision for the year.

50. Special registration of a tenure shall protect the tenure except against decree in civil suit to avoid it for fraud and as injurious to Government; and to be valid notwithstanding such decree in hands of *bonâ fide* holder of tenure for conditions specified.

51. Farms for terms of years, &c of the third excepted class for the special registration of which application has been made, shall be protected against intermediate sale of parent estate, subject to final decision of application.

52. Purchaser of an estate sold for arrears of revenue, in a district not permanently settled, to acquire the estate free from all incumbrances and all undertenures, &c. created since the time of settlement, save and except

leases of lands whereon dwelling houses, &c. have been erected: but purchaser shall not have power to enhance rents merely by reason of the annulment of the undertenures, &c.

53, 54. Recorded or unrecorded proprietors (except those who have separate shares under butwarrah or under this Act) becoming purchasers at revenue sale, shall acquire an estate only subject to all incumbrances, &c. (54) purchasers of shares sold under ss. 13 or 14 shall acquire such shares subject to all incumbrances, &c.

55. Purchaser may recover arrears due before the sale by any available process except distraint

56, 57. Sale Officer may punish contempts committed in open Cutcherry by fine, &c. subject to appeal to Commissioner; and (57) default to make a bid by payment of deposit shall be a contempt.

58. If there be no bid, the Collector may purchase the estate for one rupee for Government, or if bid be less than the arrears the Collector may take the estate for Government.

59. Authorizes the Collector to take fees not exceeding the rates in Schedule B. and such fees to be prepaid.

60. Provisions of R. 7, 1822 and R. 9, 1825 to apply to surveys made under this Act, &c.

61. Interprets word Collector to include Deputy Collector, &c.

62. Act to be confined to Regulation parts of Lower Bengal.

Schedules A. and B. (fees).

An Act to improve the law relating to sales of Land for arrears of Revenue in the Lower Provinces under the Bengal Presidency.

Preamble.

Whereas it is expedient to discontinue the practice of obtaining the previous sanction of the Board of Revenue to sales of estates for arrears of revenue, or other demands of Government, in the Province of Cuttack: and whereas it is just that a person having lien upon an estate, and paying the money necessary to protect it from sale for arrears of revenue, should be reasonably secured: and whereas it is expedient to afford sharers in estates, who duly pay their shares of the Sudder Jumma of their estates, easy means of protecting their shares from sale by reason of the default of their co-sharers: and whereas it is expedient to afford landholders, particularly absentees, facilities in guarding against the accidental sale of their estates for arrears of revenue by reason of the neglect or fraud of their agents: and whereas it is expedient to provide for the voluntary registration of dependent talooks existing at the time of settlement: and whereas it is

expedient to protect the holders of registered under-tenures created since the settlement, and not resumable by the grantors or their representatives, from loss by the avoidance of their tenures on the occasion of a sale of the superior estate for arrears of public revenue, when the arrears can be realized by such sale: and to give absolute security to such tenures by special registry, when shown to be held at rent sufficient for the security of the revenue: and it is therefore proper, for the above and other purposes, to improve the law relating to sales of land for arrears of revenue in the Provinces of Bengal, Behar, and Orissa: It is enacted as follows:

Laws repealed.

I. Regulation X. 1818 *(relating to collection of the public revenue from proprietors and farmers of land in the District of Cuttack &c.)* is hereby repealed; and from the date of the passing of this law, Act I. of 1845 *(regarding sales of land for arrears of Revenue)*, except in so far as it repeals other laws, and except in regard to sales made or advertised, to arrears and other demands realizable, and to suits commenced and acts done, under authority thereof—shall cease to have effect in the Lower Provinces of Bengal.

What is an arrear of revenue.

II. If the whole or a portion of a kist or instalment of any month of the era, according to which the settlement and kistbundee of any mehal have been regulated, be unpaid on the first of the following month of such era, the sum so remaining unpaid shall be considered an arrear of revenue.

Latest day of payment.

III. Upon the promulgation of this Act, the Board of Revenue at Calcutta shall determine upon what dates all arrears of revenue and all demands which by the Regulations and Acts in force are directed to be realized in the same manner as arrears of revenue, shall be paid up in each district under their jurisdiction, in default of which payment the estates in arrear in those districts, except as hereinafter provided, shall be sold at public auction to the highest bidder. And the said Board shall give notice of the dates so fixed in the official Gazette, and shall direct corresponding publication to be made as far as regards each district in the language of that district, in the office of the Collector or other

officer duly authorized to hold sales under this Act, in the Courts of the Judge, Magistrate, (or Joint Magistrate, as the case may be,) and Moonsiffs, and at every Thannah station of that district; and the dates so fixed shall not be changed except by the said Board by advertisement and notification, in the manner above described, to be issued at least three months before the close of the official year preceding that in which the new date is, or dates are, to take effect.

In Sylhet, personal property liable to distress and sale.

IV. Provided that in the district of Sylhet, the Collector may be authorized by the Board of Revenue to proceed in the first instance by the distress and sale of the personal property of defaulters, instead of by the sale of their estates.

Proviso in the case of certain descriptions of arrear.

V. Provided always that no estate, and no share or interest in any estate, shall be sold for the recovery of arrears or demands of the descriptions mentioned below, otherwise than after a notification in the language of the district, specifying the nature and amount of the arrear or demand, and the latest date on which payment thereof shall be received, shall have been affixed for a period of not less than fifteen clear days preceding the date fixed for payment, according to Section III. of this Act, in the office of the Collector or other officer duly authorized to hold sales under this Act, in the Court of the Judge within whose jurisdiction the land advertised lies, and in the Moonsiff's Court and Police Thannah of the division in which the estate or share of an estate to which the notification relates, is situated; or if the estate or share of an estate be situated within the jurisdiction of more than one Moonsiff's Court or Police Thannah, in some one or more of such Courts or Thannahs; and also at the Cutcherry of the malgoozar or owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate, the same to be certified by the peon or other person employed for the purpose.

First.—Arrears other than those of the current year, or of the year immediately preceding.

Secondly.—Arrears due on account of estates other than that to be sold.

Thirdly.—Arrears of estates under attachment by order of any

judicial authority, or managed by the Collector in accordance with such order.

Fourthly.—Arrears due on account of tuccavee, poolbundee, or other demands not being land revenue, but recoverable by the same process as arrears of land revenue.

Notifications of sale to be issued, and no tender after latest day of payment to stop the sale.

VI. The Collector or other Officer duly authorized to hold sales under this Act shall, as soon as possible after the latest day of payment fixed in the manner prescribed in Section III. of this Act, issue notifications in the language of the district, to be affixed in his own Office and in the Court of the Judge of the district, specifying the estates or shares of estates which will be sold as aforesaid, and the day on which the sale of the same will commence, which day shall not be less than fifteen or more than thirty clear days from the date of affixing the notification in the Office of the Collector or other officer as aforesaid. And if the Government revenue of any estate or share of an estate to be sold, exceed the sum of five hundred Rupees, a notification of the sale of such estate or share of an estate shall be published in the official Gazette. Except as hereinafter provided, all estates or shares of estates so specified shall, on the day notified for sale, or on the day or days following be put up to public auction by and in the presence of the Collector or other officer as aforesaid, and shall be sold to the highest bidder. And no payment, or tender of payment, made after sunset of the said latest day of payment, shall bar or interfere with the sale, either at the time of sale or after its conclusion.

Notice to ryots, &c.

VII. Whenever an estate or share of an estate is notified for sale as provided by Section VI. of this Act, the Collector or other officer as aforesaid shall affix a proclamation in the language of the district in his own Office, and as soon thereafter as may be in the Moonsiff's Courts and Police Thannahs within which the estate or share of an estate, or any part of it, is situated, and also at the Cutcherry of the malgoozar or the owner of the estate or share of an estate, or at some conspicuous place upon the estate or share of an estate forbidding the ryots and under-tenants to pay to the defaulting proprietor any rent which has fallen due after the day fixed

for the last day of payment, on pain of not being entitled to credit in their accounts with the purchaser for any sums so paid.

Claims against Government held by a defaulter not to invalidate a sale.

VIII. No claim to abatement or remission of revenue unless the same shall have been allowed by the authority of Government, and no private demand or cause of action whatever held or supposed to be held by any defaulter against Government, shall bar or render void or voidable a sale under this Act; nor shall the plea that money belonging to the defaulter, and sufficient to pay the arrear of revenue due, was in the Collector's hands, bar or render void or voidable a sale under this Act, unless such money stand in the defaulter's name alone and without dispute, and unless, after application in due time made by the defaulter, or after the written agreement provided for in Section XV. of this Act, the Collector shall have neglected, or refused on insufficient grounds, to transfer it on payment of arrear of revenue due.

Deposits receivable from persons not proprietors.

IX. The Collector or other Officer as aforesaid shall, at any time before sunset of the latest day of payment determined according to Section III. of this Act, receive as a deposit from any person not being a proprietor of the estate or share of an estate in arrear, the amount of the arrear of revenue due, to be credited in payment of the arrear at sunset as aforesaid, unless before that time the arrear shall have been paid by a defaulting proprietor of the estate. And in case the person so depositing, whose money shall have been credited in the manner aforesaid, shall be a party in a suit pending before a Court of justice for the possession of the estate or share from which the arrear is due, or any part thereof, it shall be competent to the said Court to order the said party to be put into temporary possession of the said estate or share, or part thereof, subject to the rules in force for taking security in the cases of parties in Civil suits. And if the person so depositing, whose money shall have been credited as aforesaid, shall prove before a competent Civil Court that the deposit was made in order to protect an interest of the said person, which would have been endangered or damaged by the sale, or which he believed in good faith would have been endangered or damaged by the sale, he shall be entitled to recover the amount of the deposit, with or without interest as the Court may determine,

from the defaulting proprietor. And if the party so depositing, whose money shall have been credited as aforesaid, shall prove before such a Court that the deposit was necessary in order to protect any lien he had on the estate, or share, or part thereof, the amount so credited shall be added to the amount of the original lien.

Separation of shares held in common.

X. When a recorded sharer of a joint estate, held in common tenancy, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the share held in the estate by the applicant. The Collector shall then cause to be published in his own Office in the Courts of the Judge, Magistrate (or Joint Magistrate, as the case may be), and Moonsiffs, and in the Police Thannahs in whose jurisdiction the estate or any part thereof is situated, as well as on some conspicuous part of the estate itself, a copy of the application made to him. If within six weeks from the date of the publication of these notices, no objection is made by any other recorded sharer, the Collector shall open a separate account with the applicant, and shall credit separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

Separation of shares consisting of specific portions of land.

XI. When a recorded sharer of a joint estate, whose share consists of a specific portion of the land of the estate, desires to pay his share of the Government revenue separately, he may submit to the Collector a written application to that effect. The application must contain a specification of the land comprised in his share, and of the boundaries and extent thereof, together with a statement of the amount of sudder jumma heretofore paid on account of it. On the receipt of this application, the Collector shall cause it to be published in the manner prescribed for publication of notice in the last preceding Section. In the event of no objection being urged by any recorded co-sharer within six weeks from the time of publication, the Collector shall open a separate account with the applicant, and shall credit

separately to his share all payments made by him on account of it. The date on which the Collector records his sanction to the opening of a separate account, shall be held to be that from which the separate liabilities of the share of the applicant commence.

If objection be made, parties to be referred to the Civil Court.

XII. If any recorded proprietor of the estate, whether the same be held in common tenancy or otherwise, object that the applicant has no right to the share claimed by him, or that his interest in the estate is less or other than that claimed by him, or if the application be in respect of a specific portion of the land of an estate, that the amount of sudder jumma stated by the applicant to have been heretofore paid on account of such portion of land is not the amount which has been recognized by the other sharers as the jumma thereof, the Collector shall refer the parties to the Civil Court, and shall suspend proceedings until the question at issue is judicially determined.

Sale of separate shares.

XIII. Whenever the Collector shall have ordered a separate account or accounts to be kept for one or more shares, if the estate shall become liable to sale for arrears of revenue, the Collector or other officer as aforesaid in the first place shall put up to sale only that share or those shares of the estate from which, according to the separate accounts, an arrear of revenue may be due. In all such cases notice of the intention of excluding the share or shares from which no arrear is due, shall be given in the advertisement of sale prescribed in Section VI. of this Act. The share or shares excluded from the sale, shall continue to constitute one integral estate, the share or shares sold being charged with the separate portion or the aggregate of the several separate portions of jumma assigned thereto.

Entire estate may be sold under certain conditions.

XIV. If in any case of a sale held according to the provisions of the last preceding Section, the highest offer for the share exposed to sale shall not equal the amount of arrear due thereupon to the date of sale, the Collector or other officer as aforesaid shall stop the sale, and shall declare that the entire estate will be put up to sale for arrears of revenue at a future date, unless the other recorded sharer or sharers, or one or more of them, shall within ten days' purchase the share in arrear by paying to Government

the whole arrear due from such share. If such purchase be completed, the Collector, or other officer as aforesaid shall give such certificate and delivery of possession as are provided for in Sections XXVIII. and XXIX. of this Act, to the purchaser or purchasers, who shall have the same rights as if the share had been purchased by him or them at the sale. If no such purchase be made within ten days as aforesaid, the entire estate shall be sold, after notification for such period and publication in such manner as is prescribed in Section VI. of this Act.

Deposit for the protection of an estate from sale.

XV. If any recorded proprietor or co-partner of an estate shall deposit with the Collector money, or Government securities endorsed and made payable to the order of the Collector, and shall sign an agreement pledging the same to Government by way of security for the jumma of the entire estate, and authorizing the Collector to apply to the payment of any arrear of revenue that may become due from that estate the whole or any portion of the said money or securities that may be necessary for that purpose, then in the case of any arrear of revenue due from the said estate not being paid before sunset of the latest day of payment fixed under Section III. of this Act, the Collector shall apply to the payment of such arrear the said money or securities, or such part thereof or of any interest due on the said securities as may be necessary; and for this purpose the Collector shall first apply any money that may be in his hands and any interest that may be due upon such securities, and may then sell and transfer the securities for any balance that may remain. And so long as any money or securities as aforesaid, sufficient to cover any arrear that may fall due, shall remain and be available as aforesaid, the estate for the protection of which the said deposit was made, shall be exempted from sale for arrears of revenue. All monies and securities so deposited shall be exempt from attachment, otherwise than in execution of a decree of a Civil Court.

Withdrawal of the deposit.

XVI. It shall be competent to the person making a deposit under the provision of the last preceding Section, or his representative or assignee, at any time to withdraw the deposit, and to revoke the pledge of the same.

XVII. No estate shall be liable to sale for the recovery of

Estates under Court of Wards or attachment.

arrears which have accrued during the period of its being under the management of the Court of Wards; and no estate the sole property of a minor or minors, and descended to him or them by the regular course of inheritance duly notified to the Collector for the information of the Court of Wards, but of which the Court of Wards has not assumed the management under Regulation VI. 1822, shall be sold for arrears of revenue accruing subsequently to his or their succession to the same, until the minor or minors, or one of them, shall have attained the full age of eighteen years. And no estate held under attachment by the revenue authorities otherwise than by order of a judicial authority, shall be liable to sale for arrears accruing whilst it was so held under attachment. And no estate held under attachment or managed by a Revenue Officer, in pursuance of an order of a judicial authority, shall be liable to sale for the recovery of arrears of revenue accruing during the period of such attachment, or management until after the end of the year in which such arrears accrued.

Estates may be specially exempted from sale.

XVIII. It shall be competent to the Collector, or other officer as aforesaid, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale; and in like manner it shall be competent to the Commissioner of Revenue, at any time before the sale of an estate or share of an estate shall have commenced, to exempt such estate or share from sale, by a special order to the Collector or other officer as aforesaid to that effect in each case; and no such sale shall be legal if held after the receipt of such order of exemption. Provided, however, and it is hereby enacted, that the Collector or other officer as aforesaid, or the Commissioner shall duly record in a proceeding the reason for granting such exemption; and provided also that an order for exemption so issued by the Commissioner shall not affect the legality of a sale which may have taken place before the receipt by the Collector or other officer as aforesaid of the order of exemption.

Proviso.

Sales where to be made.

XIX. Sales shall ordinarily be made by the Collector or other officer as aforesaid in the land revenue office at the Sudder Station of the District: pro-

vided, however, that it shall be competent to the Board of Revenue to prescribe a place for holding sales other than such office, whenever they shall consider it beneficial to the parties concerned.

Adjournment of sales.

XX. In case the Collector or other officer as aforesaid shall be unable from sickness, from the occurrence of a holiday, or from any other cause, to commence the sale on the day of sale fixed as aforesaid; or if, having commenced it he be unable, from any cause, to complete it; he shall be competent to adjourn it to the next day following, not being Sunday or other close holiday, recording his reasons for such adjournment, forwarding a copy of such record to the Commissioner of Revenue, and announcing the adjournment by a written proclamation stuck up in his cutcherry; and so on, from day to day, until he shall be able to commence upon, or to complete the sale; but, with the exception of adjournments so made, recorded, and reported, each sale shall invariably be made on the day of sale fixed in the manner aforesaid.

Order of selling.

XXI. On the day of sale fixed according to Section VI. of this Act, sales shall proceed in regular order; the estate to be sold bearing the lowest number on the towjee or register in use in the Collector's office of the district being put up first, and so on, in regular sequence; and it shall not be lawful for the Collector or other officer as aforesaid to put up any estate out of its regular order by number, except where it may be necessary to do so on default of deposit, as provided in Section XXII. of this Act.

Deposit on account of purchase money.

XXII. The party who shall be declared the purchaser of an estate or share of an estate at any such public sale as aforesaid, shall be required to deposit immediately or as soon after the conclusion of the sale of the estate or share as the Collector or other officer as aforesaid may think necessary, either in cash, Bank of Bengal Notes or Post Bills, or Government Securities to be valued at the market rate of the day, duly endorsed, twenty-five per cent. on the amount of his bid; and in default of such deposit, the estate or share shall forthwith be put up again and sold.

Full payment of purchase money.

XXIII. The full amount of purchase money shall be made good by the purchaser before sunset of the thirtieth day from that on which the sale of

the estate or share of an estate bought by him took place, reckoning that day as one of the thirty; or if the thirtieth day be a Sunday or other close holiday, then on the first office day after the thirtieth: and in default of payment within the prescribed period as aforesaid, the deposit shall be forfeited to Government, the estate or share shall be resold, and the defaulting purchaser shall forfeit all claim to the estate or share, or to any part of the sum for which it may subsequently be sold. And in the event of the proceeds of the sale which may be eventually consummated being less than the price bid by the defaulting bidder aforesaid, the difference shall be leviable from him by any process authorized for realizing an arrear of public revenue, and such difference shall be taken and considered to be a part of the purchase money and shall be dealt with in the manner hereinafter prescribed for the disposal thereof.

Re-sale.

XXIV. When default is made in the payment of purchase money a notification of the intended re-sale shall be published for the period and in the manner prescribed in Section VI. of this Act, but such notification shall not be published until the expiration of three clear days after the day on which the default shall have occurred and if the payment of the arrear on account of which the estate or share was first sold, and of any arrear which may have subsequently become due shall be made by or on behalf of the proprietor of the estate or share before sunset of the third day, the issue of the notification of re-sale shall be stayed. The rules contained in the last preceding Section shall be applicable to every such re-sale. Provided that, if default of payment of purchase money shall occur more than once, the amount to be recovered from the defaulting bidders shall be the difference between the highest bid and the proceeds of the sale eventually cosummated, which amount may be levied in manner aforesaid from any of the defaulting bidders to the extent of the amount by which his bid exceeds the amount realized.

Appeals.

XXV. It shall be lawful for the Commissioner of Revenue to receive an appeal against any sale made under this Act, if preferred to him on or before the fifteenth day from the date of sale, reckoning as in Section XXIII. or if preferred to the Collector or other Officer as afore-

said for transmission to the Commissioner, on or before the tenth day from the day of sale, and not otherwise; and the Commissioner shall be competent in every case of appeal so preferred, to annul any sale of an estate or share of an estate made under this Act, which shall appear to him not to have been conducted according to the provisions of this Act, awarding at the same time to the purchaser a payment from the proprietor of any moderate compensation for his loss, if the sale shall have been occasioned by neglect of the proprietor, such compensation not to exceed the interest: at the highest rate of the current Government Securities, on the amount of deposit or balance of purchase money during the period of its being retained in the Collector's office; and the order of the Commissioner shall in such cases be final.

Annulment of sale in special cases.

XXVI. It shall be competent to the Commissioner of Revenue, on the ground of hardship or injustice, to suspend the passing of final orders in any cases of appeal from a sale, and to represent the case to the Board of Revenue, who, if they see cause, may recommend to the local Government to annul the sale; and the local Government in any such case may annul the sale and cause the estate or share of an estate to be restored to the proprietor on such conditions as may appear equitable and proper.

Sales when final.

XXVII. All sales of which the purchase money has been paid up as prescribed in Section XXIII. of this Act, and against which no appeal shall have been preferred, shall be final and conclusive at noon of the thirtieth day from the day of sale, reckoning the said day of sale as the first of the said thirty days. And sales against which an appeal may have been preferred, and dismissed by the Commissioner, shall be final and conclusive from the date of such dismissal, if more than thirty days from the day of sale, or if less, then at noon of the thirtieth day as above provided.

Certificate of sales.

XXVIII. Immediately upon a sale becoming final and conclusive, the Collector or other Officer as aforesaid shall give to the purchaser a certificate of title in the form prescribed in Schedule A. annexed to this Act. And the said certificate shall be deemed in any Court of Justice sufficient evidence of the title to the estate or share of an estate sold being

vested in the person or persons named from the date specified; and the Collector shall also notify such transfer by written proclamation in his own office, and in the Courts of the Moonsiffs and Police Thannahs within whose jurisdictions any part of the estate or share sold shall be situated.

Delivery of possession.

XXIX. The Collector or other officer as aforesaid shall order delivery of possession of the estate or share purchased to be made by removing any person who may refuse to vacate the same, and by proclamation to the occupants of the property by beat of drum or in such other mode as may be customary, at some convenient place or places; and by affixing a copy of the certificate at the Malcutcherry or in some conspicuous place of the estate or share of an estate purchased.

Liability of purchaser.

XXX. The party certified as the proprietor of an estate or share of an estate by purchase under this Act, shall be answerable for all instalments of the revenue of Government which may fall due after the latest day of payment aforesaid.

Application of purchase money.

XXXI. The Collector shall apply the purchase money first to the liquidation of all arrears due upon the latest day of payment from the estate or share of an estate sold; and secondly to the liquidation of all outstanding demands debited to the estate or share of an estate in the public accounts of the District; holding the residue, if any, in deposit on account of the late recorded proprietor or proprietors of the estate or share of an estate sold or their heirs or representatives to be paid to his or their receipt on demand in the manner following: to wit, in shares proportioned to their recorded interest in the state or share of an estate sold, if such distinction of shares were recorded, or if not, then as an aggregate sum to the whole body of proprietors upon their joint receipt. And if before payment to the late proprietor or proprietors of any surplus that may remain of the purchase money, the same be claimed by any creditor in satisfaction of a debt, such surplus shall not be payable to such claimant, nor shall it be withheld from the proprietor, except under precept of a Civil Court.

Notification of annulment of sale.

XXXII. The annulment by a Commissioner or by Government of a sale made under this Act shall be publicly notified by the Collector or other officer as aforesaid, in the same manner as the becoming final and

conclusive of sales is required to be notified by Section XXVII. of this Act; and the amount of deposit and balance of purchase money shall be forthwith returned to the purchaser with interest thereon at the highest rates of the current public securities; which shall be paid by the Government, unless the proprietor shall have become liable for the same under the provisions of Section XXV. or Section XXVI. of this Act.

Jurisdiction of Civil Courts in suits to annul sales.

XXXIII. No sale for arrears of revenue or other demands realizable in the same manner as arrears of revenue are realizable, made after the passing of this Act, shall be annulled by a Court of Justice, except upon the ground of its having been made contrary to the provisions of this Act, and then only on proof that the plaintiff has sustained substantial injury by reason of the irregularity complained of: and no such sale shall be annulled upon such ground, unless such ground shall have been declared and specified in an appeal made to the Commissioner under Section XXV. of this Act: and no suit to annul a sale made under this Act shall be received by any Court of Justice unless it shall be instituted within one year from the date of the sale becoming final and conclusive as provided in Section XXVII. of this Act: and no person shall be entitled to contest the legality of a sale, after having received any portion of the purchase money. Provided, however, that nothing in this Act contained shall be construed to debar any person considering himself wronged by any act or omission connected with a sale under this Act, from his remedy in a personal action for damages against the person by whose act or omission he considers himself to have been wronged.

Proviso.

Effects of annulment by decree of Court of sales under this Act.

XXXIV. If a sale made under this Act be annulled by a final decree of a Civil Court, application for the execution of such decree shall be made within six months after the date thereof; otherwise the party in whose favor such decree was passed shall lose all benefit therefrom. And no order for restoring such decree-holder to possession shall be passed until any amount of surplus purchase money that may have been paid away by order of a Civil Court be repaid by him, with interest at the highest rate of current Government Securities. And if such party shall neg-

lect to pay any amount so recoverable, within six months from the date of such final decree, he shall lose all benefit therefrom.

If sale annulled, purchase money to be refunded.

XXXV. In the event of a sale being annulled by a final decree of a Court of Justice, and the former proprietor being restored to possession, the purchase money shall be refunded to the purchaser by Government, together with interest at the highest rate of the current public securities.

No suits on the ground of benamee purchase.

XXXVI. Any suit brought to oust the certified purchaser as aforesaid, on the ground that the purchase was made on behalf of another person not the certified purchaser, or on behalf partly of himself and partly of another person, though by agreement the name of the certified purchaser was used, shall be dismissed with costs.

Rights of a purchaser of a permanently settled estate sold for its own arrears.

XXXVII. The purchaser of an entire estate in the permanently settled Districts of Bengal, Behar, and Orissa, sold under this Act for the recovery of arrears due on account of the same shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement: and shall be entitled to avoid and annul all under-tenures and forthwith to eject all under-tenants, with the following exceptions:

First. Istemraree or mokuraree tenures which have been held at a fixed rent from the time of the permanent settlement.

Secondly, Tenures existing at the time of settlement, which have not been held at a fixed rent. Provided always that the rents of such tenures shall be liable to enhancement under any law for the time being in force for the enhancement of the rent of such tenures.

Thirdly. Talookdaree and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates; and farms for terms of years so held, when such tenures and farms have been duly registered under the provisions of this Act.

Fourthly. Leases of lands whereon dwelling houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk.

And such a purchaser as is aforesaid shall be entitled to proceed in the manner prescribed by any law for the time being in force for the enhancement of the rent of any land coming within the fourth class of exceptions above made, if he can prove the same to have been held at what was originally an unfair rent, and if the same shall not have been held at a fixed rent, equal to the rent of good arable land, for a term exceeding twelve years; but not otherwise.

Proviso.

Provided always, that nothing in this Section contained shall be construed to entitle any such purchaser as aforesaid to eject any ryot, having a right of occupancy at a fixed rent or at a rent assessable according to fixed rules under the laws in force, or to enhance the rent of any such ryot otherwise than in the manner prescribed by such laws, or otherwise than the former proprietor, irrespectively of all engagements made since the time of settlement, may have been entitled to do.

Registration of talookdaree tenures created after settlement and held for terms of years.

XXXVIII. The following rules for the registration of talookdaree and other similar tenures created since the time of settlement, and held immediately of the proprietors of estates and of farms for terms of years so held, shall be observed.

Common and special registry.

XXXIX. There shall be two sets of registers, one for common registry and one for special registry. Common registry shall secure such tenures and farms against any auction purchaser at a sale for arrears of revenue except the Government. Special registry shall secure such tenures and farms against any auction purchaser at a sale for arrears of revenue including the Government.

Application for registry.

XL. The holder of any talookdaree or other similar tenure, such as is described in Section XXXVIII. of this Act, desirous of registering it, shall apply by petition to the Collector of the District to which the estate belongs. The application shall state which description of registry is desired, and shall contain the following particulars so far as the same are ascertainable.

1. The Pergunnah or Pergunnahs in which the tenure is situated.

2. The nature of the tenure.

3. The name or names of the village or villages whereof the land is composed, or wherein it is situated.

4. The area of the land comprised in the tenure, with its boundaries in complete detail.

5. The amount of rent payable annually for the tenure, and whether the rent is fixed for a term of years or in perpetuity, and the duties, if any, required to be performed on account of it.

6. The date of the deed constituting the tenure, or the date when the tenure was created.

7. The name of the proprietor who created the tenure.

8. The name of the original holder of the tenure.

9. The name of the present possessor, and if he be not the original holder, the mode in which he succeeded to the tenure, whether by inheritance, gift, purchase, or otherwise, and whether he holds jointly or solely.

Holders of such farms as are described in the said Section may apply in like manner for registry of the same. The application shall contain such of the foregoing particulars as are applicable to farms.

Procedure on application for common registry.

XLI. When the application is for common registry, the Collector shall serve a notice on the recorded proprietor or proprietors of the estate in which the tenure or farm is situated, or the authorized agent of such proprietor or proprietors, with a copy of the application annexed; and shall cause a notice, with a copy of the application annexed, to be affixed in his office, and at the mal-cutcherry of the estate in which the tenure or farm is situated, or in such other place or places as in the opinion of the Collector may be best suited to give publicity to the application, requiring the proprietor or any party interested, within thirty days from the issue of the said notice, to file any objections he may have to the registry of the tenure or farm, or to any statement contained in the application. If within the limited time no objection is made, the Collector shall register the tenure or farm. If within the limited time an objection is made by any recorded proprietor, or by any party interested not being a proprietor, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has proba-

ble ground of objection, the Collector shall suspend proceedings, and shall refer the parties to the Civil Court, otherwise he shall grant the application. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall register the tenure or farm.

Procedure on application for special registry.

XLII. When the application is for special registry, the Collector shall serve and issue the notices prescribed in the last preceding Section. If within the limited time no objection is made, the Collector shall cause any enquiry that he may deem necessary for the security of the Government revenue, to be made; and if he is satisfied that the Government revenue of the present state is sufficiently secured so far as it may be affected by the tenure or farm in question, he shall report the case to the Commissioner, who, if also satisfied on that point, shall direct the tenure or farm to be registered according to the application. Otherwise the application shall be rejected. If within the limited time any recorded proprietor or any party interested not being a proprietor object to the registry, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and shall refer the parties to the Civil Court, otherwise he shall proceed as if no objection had been made. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time.

Registration of leases of certain lands.

XLIII. Leases of lands of the description specified in the fourth exceptional class in Section XXXVII. may be registered, at the option of the holders, in the manner and under the rules hereinbefore provided for the registry of Talookdaree and other similar tenures.

Registration of old tenures.

XLIV. Tenures of the first and second exceptional classes in Section XXXVII. may be registered, at the option of the holders; and when so registered shall be entered only in the special register. Application for such registry shall contain the particulars specified in Section XL. so far as the same are ascertainable, and notices shall be served and issued in the manner prescribed in Section XLI. If within the limited time no objection is made by any recorded proprietor

or by any party interested not being a proprietor, the Collector shall make such enquiries as may be necessary to satisfy him as to the validity of the tenure; and if the result be to satisfy him that the tenure is valid, he shall report the case to the Commissioner, who, if also satisfied that the tenure is valid, shall direct it to be entered in the special register. Otherwise the application for registry shall be rejected. If within the limited time any recorded proprietor or other party as aforesaid object to the registry of the tenure, the Collector shall examine the person so objecting or his authorized agent, and if it shall appear to him that such person has probable ground of objection, shall suspend proceedings, and refer the parties to the Civil Court, otherwise he shall proceed as if no objection had been made. If the decision of the Civil Court be in favor of the applicant, the Collector, on the presentation of a copy of the final decree, shall proceed as above provided for cases in which no objection is made within the limited time. Provided always that nothing contained in this Section shall be understood as rendering registration necessary for the protection of *boná fide* tenures of the description herein referred to.

Proviso.

XLV. Application for registry of existing tenures and farms must be made within three years after the passing of this Act. Application for the registry of tenures created after the passing of this Act must be made within three months from the date of the deed constituting the tenure.

Time for application for registry of tenures and farms.

XLVI. The actual expenses of any measurement, survey, or local enquiry made under Sections XLII. and XLIV. of this Act, shall be borne by the party who applies for the registry of his tenure or farm; and such party may be required by the Collector from time to time to make such advances on this account as he may consider necessary.

Expenses of measurement, survey, or local enquiry.

XLVII. No Civil Court shall be competent to order the Revenue Authorities to enter any tenure or farm in the special register. Provided always, that the refusal of the Revenue Authorities so to register any tenure or farm shall not affect the title of the holder, whatever it may be.

Civil Court not competent to order entry in the special register.

XLVIII. Subject to the general law of limitation, any per-

Suit for the cancelment of the registry of a tenure or farm.

son thinking himself wronged by the registry of a tenure or farm, may file a suit for the cancelment of the same.

Proceedings of Revenue Authorities in the registration of tenures, &c.

XLIX. In the execution of their functions in the registration of tenures and farms under this Act, all subordinate Revenue Authorities shall proceed in accordance with the general instructions which they may receive from the superior Revenue Authorities to whom they are subordinate, and from the local Government; and all orders passed under the Sections aforesaid shall be open to appeal in usual course. The order of a Commissioner for the special registry of a tenure under the provisions of this Act, shall be open at any time within one year from the date of registry to revision by the Board of Revenue, or the local Government, on the ground of the Government Revenue not having been sufficiently secured or of the invalidity of the tenure, as the case may be.

Effect of entry in the special register.

L. Entry in the special register shall be an effectual protection of the tenure or farm so registered, unless in a suit instituted by Government in a Civil Court within the period allowed for suits for the recovery of the public revenue a decree be passed pronouncing the registration to have been obtained by fraud, to the injury of the Government revenue. Provided that a tenure or farm in the hands of a *bona fide* purchaser for value shall not be avoided by reason of such fraud. But the tenure or farm shall be liable to such amount of rent as would have been fair and equitable at the time of the special registry thereof, such amount to be fixed by the Collector.

Protection of talookdaree tenures pending enquiry, in case of sale of parent estate for arrears of revenue.

LI. Tenures and farms of the third exceptional class described in Section XXXVII. of this Act, for the special registration of which application shall be made within the prescribed time, and in respect of which the Collector shall have commenced the enquiry prescribed in Section XLII. shall, in case of the sale of the parent estate for arrears of revenue, be protected pending the duration of such enquiry, and shall be protected eventually by registration, if the final award of the Revenue Authorities, upon such application, be in favor of the claimant.

LII. The purchaser of an estate in a district not permanently settled, sold under this Act for the recovery of arrears due on account of the same, shall acquire the estate free from all encumbrances which may have been imposed upon it after the time of settlement, and shall be entitled to avoid and annul all tenures which may have originated with the defaulter or his predecessors, being representatives or assignees of the original engager, as well as all agreements with ryots or the like settled or accredited by the first engager or his representatives, subsequently to the last settlement, as well as all tenures which the first engager may, under the conditions of his settlement, have been competent to set aside, alter, or renew, saving always and except leases of lands whereon dwelling houses, manufactories, or other permanent buildings have been erected, or whereon gardens, plantations, tanks, wells, canals, places of worship, or burning or burying grounds have been made, or wherein mines have been sunk, which leases or engagements shall, so long as the land is duly appropriated to such purposes, and the stipulated rent paid, continue in force and effect. Provided that nothing contained in this Section shall be construed to entitle any purchaser of land at a public sale for arrears of revenue to demand a higher rate of rent from any persons whose tenure or agreement may be annulled as aforesaid, than was demandable by the former proprietor, except in cases in which such persons may have held their lands under engagements, stipulating for a lower rate of rent than would have been justly demandable for the land, or in cases in which it may be proved that, according to the custom of the pergunnah, mouzah, or other local division, such persons are liable to be called upon for any new assessment, or other demand not interdicted by the regulations of Government.

Rights of a purchaser of an estate not permanently settled sold for its own arrears.

LIII. Excepting shares in estates under butwarrah who may have saved their shares from sale under Sections XXXIII. and XXXIV. Regulation XIX., 1814, and sharers whom the Collector, under Sections X. and XI. of this Act, has opened separate accounts; any recorded or unrecorded proprietor or co-partner, who may purchase the estate of which he is proprietor or co-partner; or

Rights of a purchaser being a sharer in any estate.

who by re-purchase or otherwise may recover possession of the said estate, after it has been sold for arrears under this Act; and likewise any purchaser of an estate sold for arrears or demands other than those accruing upon itself; shall by such purchase acquire the estate subject to all its encumbrances existing at the time of sale, and shall not acquire any rights in respect to under-tenants or ryots, which were not possessed by the previous proprietor at the time of the sale of the said estate.

And of a purchaser of an estate not sold, for its own arrears.

LIV. When a share or shares of an estate may be sold under the provisions of Section XIII. or Section XIV. the purchaser shall acquire the share or shares subject to all encumbrances, and shall not acquire any rights which were not possessed by the previous owner or owners.

Rights of purchasers of shares of estate.

LV. Arrears of rent which on the latest day of payment may be due to the defaulter from his under-tenants or ryots, shall, in the event of a sale, be recoverable by him after the said latest day, by any process except distraint which might have been used by him for that purpose on or before the said latest day,

Recovery of arrears due to defaulters.

LVI. Any Collector or other Officer as aforesaid conducting a sale under this Act shall be competent to punish any contempt committed in his presence in open cutcherry or office for the time being, by fine, to an extent not exceeding two hundred Rupees, commutable, if not paid, to imprisonment in the Civil jail for a period not exceeding one month; and the Magistrate to whom such an offender may be sent by a Collector or other officer as aforesaid, shall carry his sentence into effect. Provided that an appeal from any order passed under this Section shall lie to the Revenue Commissioner, whose decision shall be final.

Punishment for contempt.

LVII. A default to make good a bid by making the deposit required by Section XXII. of this Act, shall be held to be a contempt.

Default in making deposit to be considered a contempt.

LVIII. When an estate is put up for sale under this Act for the recovery of arrears of revenue due thereon, if there be no bid, the Collector or other

Government may purchase at a sale.

officer as aforesaid may purchase the estate on account of the Government for one Rupee, or if the highest bid be insufficient to cover the said arrears and those subsequently accruing up to the date of sale, the Collector or other officer as aforesaid may take or purchase the estate on account of the Government at the highest amount bid; in both which cases the Government shall acquire the property subject to the provisions of this Act.

Fees and charges demandable by Collector.

LIX. The Collector on the part of the Government shall be entitled to demand from applicants under Sections X. and XI. Sections XV. and XVI. and Sections XL. XLIII. and XLIV. of this Act, fees not exceeding the rates specified in Schedule B. to this Act annexed, which Schedule shall be taken as part of this Act; and applications under the said Sections shall not be received unless the said fees are tendered therewith.

Regulations VII. 1822 and IX. 1825 to be in force in certain estates.

LX. The provisions of Regulation VII. 1822 and Regulation IX. 1825 shall be in force in every estate in any part of which a measurement, survey, or local enquiry may be made under this Act; and in every estate purchased or taken on account of Government under this Act.

Interpretation.

LXI. In the construction of this Act, the word "Collector" shall include a Deputy Collector, or other officer exercising by the authority of Government the powers of a Collector or Deputy Collector.

Application and commencement of this Act.

LXII. The operation of this Act shall be confined to such parts of the Lower Provinces in the Presidency of Fort William in Bengal as are or shall be subject to the general regulations of that Presidency.

SCHEDULE A.

I certify that A. B. has purchased under Act No. XI. of 1859 the mehal *(or share of a mehal)* specified below, standing in the towjee of the district of , and that his purchase took effect on the day of *(being the day after that fixed for last day of payment.)*

(signed) D. E.
Collector.

SPECIFICATION.

(if of an entire Mehal.)

Towjee number
Name of Mehal
Name of the former proprietor
Sudder Jumma

(if of a share of a Mehal.)

Towjee number of the entire Mehal
Name of the entire Mehal
Sudder Jumma of the entire Mehal
Description of the share sold
Subordinate Towjee number of the share sold
Name of the former proprietor of the share sold
Sudder Jumma for which the share sold is separately liable.

SCHEDULE B.

FEES.

For filing an application under Section X. or Section XI. for opening a separate account for a share of an entire estate.

If the annual jumma of the share do not exceed Rs. 250 ... . 25 0 0

If the annual jumma of the share exceed Rs. 250 and do not exceed Rs. 1,000, at the rate of ten per cent. upon the jumma.

If the annual jumma of the share exceed Rs. 1,000, at the rate of ten per cent. upon Rs. 1,000, and two per cent. upon all above that amount.

For filing an application for a deposit of money or Government Securities under Section XV. half per cent. on the amount deposited.

For any interest on Government Securities so deposited, drawn by the Collector, half per cent. of the amount drawn.

For filing an application for withdrawal of a deposit under Section XVI. half per cent. of the amount withdrawn.

For filing an application under Section XLI. XLII. or XLIII. for the registration of under-tenure or farm.

If the annual rent of the under-tenure. do not exceed Rs. 500 .. .. 25 0 0

If the annual rent of the under-tenure exceed Rs. 500 and

do not exceed Rs. 1,000, at the rate. of five per cent upon the rent.

If the annual rent of the under-tenure exceed Rs. 1,000, at the above rate up to Rs. 1,000, and at one per cent. upon all above that amount.

BENGAL.—PILOTS.

ACT No. XII. OF 1859.

[*Passed on the 4th May*, 1859.

1. Repeals Act XXIV. 1845.

2. If any person in Pilot service or licensed as Pilot is accused of breach of duty, and it appears to Superintendent of Marine, &c. he shall be brought to trial, upon charges, &c. before Court under this Act.

3, 4. The Lieutenant Governor shall appoint a Judge of the Court; and (4) a person to conduct the proceedings as Prosecutor.

5. Every trial to be before the Judge and a Jury of two Merchants, one Master of ship and a Pilot of not less than twenty years' service

6,—8. The Judge shall keep a list of Merchants and list of Pilots liable to serve; and (7) when about to hold a trial, shall give notice to prosecutor and party for appointing a jury; and (8) at time and place specified shall in their presence read over names from the Jury list and propose a master for the Jury; and names read to be the Jury, if not objected to, or if objected to, grounds to be stated and Judge to decide, &c.

9. Judge to fix a day for trial and to summons jury; Juryman not attending may be fined Rs. 200, unless the Judge allows his excuse, and fine may be levied by distress and sale of goods, &c.

10. In case of non-attendance of full Jury, trial may proceed by consent of party and prosecutor, and if consent be not given, Judge may summons another juryman, or postpone the trial and resummons same Jury or new jurymen, subject to objection as on appointing original Jury.

11. Judge to keep a register of Jurymen who have served and not to summons them again till all in the list shall have served.

12. Jurymen to be sworn or affirmed to give a true verdict according to the evidence.

13. Judge at instance of prosecutor or of party or of his own motion may summons witness for trial, or if about to depart, &c. for examination before day of trial, giving notice to accused, but such witnesses may also be examined at the trial.

14. Witness neglecting to attend, &c. without sufficient excuse may be fined not exceeding Rs. 500 at discretion of Judge.

15. Evidence of witness to be given on oath, affirmation or otherwise according to practice of Supreme Court.

16. Verdict to be given on each charge, according to opinion of majority of Jurors, or if Jurors are equally divided, according to opinion of Judge.

17. Prescribes what sentence Judge may pass, and empowers G. of B. to establish a scale of offences and punishments.

18. Proceedings to be sent to Government, and no sentence to be carried out till approved, and Government may remit or mitigate punishment.

19. If the Judge deems the conviction wrong or trial insufficient, he may abstain from passing sentence, and certify to the Government.

20. Empowers the L. G. of B. to make rules of practice for the Court.

21. Act not to restrict the power of the Marine Authorities over Pilots in case of breach of duty deemed not sufficient for trial under this Act.

22. Licensed Pilot refusing to submit to trial, to lose his License.

23. Act to extend to all persons employed in the Pilot Service however remunerated.

An Act to make better provision for the trial of Pilots at the Presidency of Fort William in Bengal for breach of duty.

Preamble.

Whereas it is expedient to amend the law for the trial of persons employed in the Pilot Service of Government, at the Presidency of Fort William in Bengal, when accused of breach of duty, and to extend the same to persons licensed to act as Pilots at the said Presidency; It is enacted as follows :—

Acts repealed.

I. Act XXIV. of 1845 *(for establishing a Court for the trial of Officers of the Pilot Service accused of breach of duty)* and I. of 1851 *(for the appropriation of fines levied under Act XXIV. of* 1845) are hereby repealed.

How Pilots accused of breach of duty shall be brought to trial.

II. When any person employed in the Pilot Service of Government at the Presidency of Fort William in Bengal, or licensed to act as a Pilot at the said Presidency, shall be accused of having committed any breach of duty while engaged in such Service, or acting under such license, and it shall appear to the Superintendent of Marine, or to the Lieutenant Governor of Bengal that such person ought to be brought to trial for such breach of duty, such person shall be brought to trial upon a charge or charges framed by the said Superintendent of Marine or such other person as the said Lieutenant Governor shall direct, before a Court constituted under the provisions of this Act.

Appointment of Judge.

III. The Lieutenant Governor of Bengal shall appoint a fit person to be Judge of the said Court.

Appointment of Prosecutor

IV. The Lieutenant-Governor shall appoint such person as he may think proper to conduct the proceedings before the Court as Prosecutor on the part of Government.

Trial to be held before the Judge and Jury.

V. Every trial under this Act shall be held before the said Judge and a Jury composed of two Merchants of Calcutta, a Master of a Merchant Ship lying in the Port of Calcutta, and a Pilot of not less than twenty years' service.

Lists of Merchants and Pilots liable to serve on the Jury.

VI. The Judge shall cause to be prepared and shall keep two separate lists, one containing the names of Merchants, the other containing the name of Pilots, liable to serve on such Jury. The names in each list shall be arranged in alphabetical order, and place of abode and quality or business of each person named shall be stated.

Notice to prosecutor and accused, of time and place for appointing Jury.

VII. When the Judge shall be about to hold a trial under this Act, he shall give notice to the prosecutor and to the party accused of a time and place to be fixed by the Judge for appointing a Jury to serve at such trial.

Appointment of Jury

VIII. At the time and place mentioned in the notice, the Judge in the presence of the prosecutor and the person accused shall read over the names which first occur in each of the said lists of those Merchants and Pilots who he has reason to believe are present in Calcutta and capable of attending as Jurors at the trial; and shall also propose the name of a Master of a Merchant Ship lying in the Port of Calcutta, whom he deems qualified to serve on such Jury. If no objection be made and allowed, the persons so nominated shall be the Jury to serve at the trial. If the prosecutor or the party accused shall object to any of the persons named as Jurors, he shall assign the grounds of his objection and such objection shall forthwith be decided by the Judge. If the objection be allowed, the Judge shall read from the said lists or propose (as the case may be) another name in the place of the one objected to, and the person so nominated shall serve on the Jury provided no objection to such person be made and allowed as aforesaid.

IX. When a Jury has been appointed under the last preceding Section, the Judge shall fix a day for the trial and shall summon by writing under his hand the persons so appointed to sit as a Jury. If any such person when duly summoned shall, without such excuse as the Judge shall allow to be sufficient, neglect or refuse to attend at the time appointed or to remain in attendance until the trial shall be completed, it shall be lawful for the said Judge to impose upon any such person a fine not exceeding two hundred Rupees for every such default; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the defaulter under a warrant to be issued for that purpose by the Judge. Such warrant may be transmitted by the Judge to any Magistrate of Police for the town of Calcutta, and thereupon such Magistrate shall endorse the same and shall cause it to be executed in the same manner as if the warrant had been issued by such Magistrate.

Day of trial to be fixed and summons to issue to Jurors.

Penalty for non-attendance.

X. If for any cause any of the persons summoned to attend as Jurors shall not be in attendance at the time fixed for the commencement of the trial, the trial may with the consent of the prosecutor and the party accused be held before the Judge and such Jurors as shall be in attendance. If such consent be not given, the place of the absent Juror shall be supplied by some other person selected by the Judge from the same profession or calling as the person originally summoned and who shall consent to serve, provided no objection to such person be made and allowed in manner aforesaid. If the parties or either of them do not consent that the trial shall be held before the Judge and such Jurors as may be in attendance and the place of the absent Juror cannot be supplied by a person consenting to serve, the trial shall be postponed to another day and the Judge shall either re-summon the same Jury or appoint and summon another Jury in the manner hereinbefore provided.

Trial how to proceed if any of the Jurors do not attend.

XI. The Judge shall register in a book the names of all Jurors mentioned in either of the said two lists who have attended and served on a trial held under this Act. A Juror who has served shall not be required again to serve and his name shall be excluded in reading over

Register of Jurors who have served.

the Jury lists until all the persons named in the said lists who are present in Calcutta and capable of attending as Jurors shall have served.

Jurors to be sworn.

XII. Before the commencement of any trial under this Act, the persons summoned and attending as Jurors shall be sworn or affirmed by the Judge of the Court to give a true verdict according to the evidence.

Judge may summon witnesses to attend at a certain time and place.

XIII. It shall be lawful for the Judge of the said Court, at the instance of the prosecutor, or of the party accused, or of his own motion, by writing under his hand, to summon any person to attend as a witness at a time and place to be specified in the summons, for the purpose of being examined at any trial before the said Court; or if such person shall be about to depart from Calcutta, so as to be unable to attend at such trial without serious inconvenience, then to be examined before the Judge of the said Court before the day fixed for the trial; provided always that due notice of the time and place of such examination shall be given to the accused party; provided also that such witness may nevertheless be examined at the trial if he shall be able to attend thereat, in which case his previous examination may also be read at the trial.

Examination of witnesses about to leave Calcutta.

Penalty for witnesses not attending or refusing to give evidence.

XIV. If any person who shall have been duly summoned to attend as a witness shall, without sufficient excuse, neglect or refuse to attend, or attending shall refuse to give evidence or to answer any question which may be lawfully put to him, such person shall forfeit and pay such fine, not exceeding five hundred Rupees; as the Judge of the said Court shall order; and such fine, if not paid, shall be levied by distress and sale of the goods and chattels of the person ordered to pay the same in the manner prescribed in Section IX. of this Act.

Witnesses to be examined on oath, according to the rules in force in the Supreme Court.

XV. The evidence of every witness examined before the said Court shall be given on oath, affirmation, or otherwise, according to the rules in that behalf for the time being in force for the examination of witnesses in Her Majesty's Supreme Court of Judicature.

XVI. Upon the completion of the trial, the Jurors shall give

Verdict of Jurors.

their verdict upon the charge, or, if there be more than one, upon each separate charge. The verdict shall be according to the opinion of the majority of Jurors. If the Jurors are equally divided, the Judge shall declare his opinion, and the verdict shall be according to the opinion of the Judge and the Jurors with whom he concurs.

Sentence of Court if the accused be found guilty.

XVII. If by such verdict the accused person is found guilty of the charge or of any one or more of the charges preferred against him, the Judge of the Court shall sentence him to be dismissed from the said Pilot Service, or to have his license withdrawn, or shall award such other punishment, by loss of rank or pay, or by change of a license from a higher to a lower grade, or suspension from employment for a specified period, as to the Judge shall appear fit. The Lieutenant-Governor of Bengal, with the sanction of the Governor General in Council, may prepare a Schedule of offences and punishments (such punishments being of the same nature as those hereinbefore mentioned) for the guidance of the said Court; and if such Schedule be prepared and sanctioned, and the charge proved before the said Court is an offence specified in such Schedule, the Judge of the said Court shall award such punishment as is prescribed for such offence in the said Schedule, and no other. If by such verdict as aforesaid the accused person is found not guilty of the charge or charges preferred against him, the Judge shall declare him acquitted of the same

Schedule of offences and punishments to be prepared.

Acquittal.

No sentence to be final till approved by Government.

XVIII. The proceedings of the Court shall be sent by the Judge to the Superintendent of Marine for submission to the Lieutenant-Governor of Bengal; and no sentence of punishment pronounced by the Judge of the said Court shall be final until it has been approved of by the said Lieutenant-Governor. The said Lieutenant-Governor may remit the whole or any part of such sentence, or may direct the substitution of any mitigated punishment in lieu of the punishment awarded by the said Court, as he shall think fit.

Goverment may remit sentence or mitigate punishment.

XIX. If it shall appear to the Judge of the said Court that

If verdict of Jurors be manifestly contrary to evidence, or trial be otherwise insufficient.

the verdict of the Jurors is manifestly contrary to the evidence, or that the trial is otherwise insufficient, the Judge, instead of passing sentence on the accused person, or declaring him acquitted, as the case may be, may certify the same to the Lieutenant-Governor of Bengal, and the said Lieutenant-Governor may either order a new trial before another Jury, or acquit the accused person, as he shall think fit.

Power of Government to make rules of practice.

XX. It shall be lawful for the Lieutenant-Governor of Bengal to make such rules as he shall think proper, not inconsistent with the provisions of this Act, for conducting the proceedings and regulating the practice of the said Court.

Act not to restrict Marine Authorities or Government from passing orders upon a charge of breach of duty where a trial is not deemed necessary.

XXI. Nothing contained in this Act shall be held to restrict the Marine Authorities or the Government from passing such order as may be deemed proper upon any charge of breach of duty preferred against any person employed in the said Pilot Service, when it shall not be deemed necessary that such person should be brought to trial for such breach of duty under the provisions of this Act.

Withdrawal of license from licensed Pilot.

XXII. If any person licensed to act as a Pilot, when duly charged with breach of duty as aforesaid, shall refuse to submit himself to trial under the provision of this Act, the license of such person shall be withdrawn, and he shall be incapable of being again licensed to act as a Pilot at the said Presidency.

Act applicable to what persons.

XXIII. The provisions of this Act shall extend to all persons employed in the Pilot Service at the said Presidency and borne on the rolls of the Government establishment, whether such persons receive fixed salaries, or are remunerated by a portion of the pilotage charged on the vessels piloted by them, or in any other manner, and to all persons licensed to act as Pilots at the said Presidency.

PRESIDENCY TOWNS.—MASTERS AND WORKMEN.

ACT No. XIII. OF 1859.

[*Passed on the 4th May*, 1859.

1, 2, 3. Entitles employers in Presidency towns to complain to magistrate against artificers, &c. for not doing work according to contract, for which they have received an advance; and (2) empowers Magistrate to order performance, and on default to sentence artificer to be imprisoned &c. and (3) on making order for performance may require artificer to give security for performance, and on default of giving security may commit to prison.

4, 5. Act to extend to all contracts in whatever form for specified work, and (5) may be extended by government to the mofussil.

An Act to provide for the punishment of breaches of contract by Artificers, Workmen, and Laborers in certain cases.

Preamble.

Whereas much loss and inconvenience are sustained by manufacturers, tradesmen, and others in the several Presidency Towns of Calcutta, Madras, and Bombay, and in other places, from fraudulent breach of contract on the part of Artificers, Workmen, and Laborers who have received money in advance on account of work which they have contracted to perform; and whereas the remedy by suit in the Civil Courts for the recovery of damages is wholly insufficient, and it is just and proper that persons guilty of such fraudulent breach of contract should be subject to punishment; It is enacted as follows:—

If workman neglect to perform work, on account of which he has received an advance of money, complaint may be made to the Magistrate.

I When any Artificer, Workman, or Laborer shall have received from any master or Employer resident or carrying on business in any Presidency Town, or in any station of the Settlement of Prince of Wales' Island, Singapore, and Malacca, or from any person acting on behalf of such Master or Employer, an advance of money on account of any work which he shall have contracted to perform, or to get performed by any other Artificers, Workmen, or Laborers, if such Artificer, Workman, or Laborer shall wilfully and without lawful or reasonable excuse neglect or refuse to perform or get performed such work according to the terms of his contract, such Master or Employer or any such person as aforesaid may complain to a Magistrate of Police, and the Magistrate shall there-

upon issue a summons or a warrant, as he shall think proper, for bringing before him such Artificer, Workman, or Laborer, and shall hear and determine the case.

Magistrate may order re-payment of advance or performance of contract.

II. If it shall be proved to the satisfaction of the Magistrate that such Artificer, Workman, or Laborer has received money in advance from the complainant on account of any work, and has wilfully and without lawful or reasonable excuse neglected or refused to perform or get performed the same according to the terms of his contract, the Magistrate shall, at the option of the complainant, either order such Artificer, Workman, or Laborer to repay the money advanced, or such part thereof as may seem to the Magistrate just and proper, or order him to perform or get performed, such work according to the terms of his contract; and

Penalty if workman fail to comply with the order.

if such Artificer, Workman, or Laborer shall fail to comply with the said order, the Magistrate may sentence him to be imprisoned with hard labor for a term not exceeding three months, or if the order be for the repayment of a sum of money, for a term not exceeding three months, or until such sum of money shall be sooner repaid; provided that no such order for the repayment of any money shall, while the same remains unsatisfied, deprive the complainant of any Civil remedy by action or otherwise which he might have had but for this Act.

Magistrate may require workman to give security for due performance of order.

III. When the Magistrate shall order any Artificer, Workman, or Laborer to perform or get performed any work according to the terms of his contract, he may also at the request of the complainant, require such Artificer, Workman, or Laborer to enter into a recognizance with sufficient security for the due performance of the order; and in default of his entering into such recognizance or furnishing such security to the satisfaction of the Magistrate, may sentence him to be imprisoned with hard labor for a period not exceeding three months.

To what contracts the Act extends.

IV. The word "contract," as used in this Act, shall extend to all contracts and agreements whether by deed, or written or verbal, and whether such contract be for a term certain, or for specified work, or otherwise.

V. This Act may be extended by the Governor General of India in Council, or by the Executive Government of any Presidency or place, to any place within the limits of their respective jurisdictions. In the event of this Act being so extended, the powers hereby vested in a Magistrate of Police shall be exercised by such Officer or Officers as shall be specially appointed by Government to exercise such powers.

Act may be extended by Government.

LIMITATION OF SUITS.

ACT No. XIV. OF 1859.

[*Passed on the 4th May*, 1859.

Recites expediency of amending and consolidating the laws of limitation.

1. Declares that the period of limitation established by this Act shall supersede all other existing periods; viz. (1) one year in suits to enforce a right of pre-emption; (2) one year in suits for penalties or forfeiture established by Law, for damages to person, personal property or reputation, damages for infringement of Copyright or of any exclusive privilege; in suits for wages of servants, artizans or labourers, for tavern bills, board, lodging and in summary suits under specified Madras Reg.; (3) one year in suits to set aside sales under mofussil civil executions, or sales for arrears of government revenue or other demand recoverable as such; in suits by Putneedars and other under-tenure-holders for rents, or by same parties to set aside sale of putnee talooks or other under-tenure, and in suits to set aside sale under order of Collector or other revenue officer; (4) one year in suits to set aside attachment, lease or transfer of any land by the revenue officers, &c. or to recover money paid under protest for revenue account; (5) in suits to alter or set aside summary decisions and order of mofussil Courts; (6) three years in suits to contest awards under specified Beng. Regs.; (7) three years in suits by any party bound respecting the possession of property under Act IV. 1840, &c.; (8) three years in suits to recover the hire of animals, &c. or the amount of retail bills and for rents, &c.; (9 and 10) three years in suits for money lent, interest and breach of any contract, unless the contract be in writing or being in writing, it might have been registered and was not so for six months; (11) twelve years in cases governed by English law on debts of record or specialty or for a legacy; (12) twelve years in suits for recovery of immovable property not otherwise provided for; and (13) for shares in joint family property, or for maintenance, &c. and (14) by any proprietor for resumption of rent free land; (15) thirty years in suits against depositary, pawnee, or mortgagee for recovery of property if the property be

movable, and sixty years if immovable; and (16) six years, in all other suits.

2. Suits against trustees for the purpose of following specific property in their hands to be barred by no length of time; but suits for compensation out of estate of trustee to be barred in six years from death of trustee. Against right of co-trustee to contribution time to be six years from date of right to contribution.

3. Where this Act establishes a longer period of limitation than that of the existing Law, the existing Law to remain in force and this Act to be inoperative.

4, 5, 6, 7, 8. Period of limitation to run in suits for debt and legacy from date of written admission; (5) in suits of true owners, &c. against purchasers from trustees, &c. under defeasible title, from date of purchase; (6) in suits in Supreme Court by mortgagee for mortgaged estate, from date of last payment of interest, &c. (7) in suits to avoid incumbrances or under-tenures in an estate sold for arrears of revenue, &c. or of rent, from date of sale, &c. (8) in suits on mutual accounts current between merchants and traders from date of last item of current year.

9. In case of cause of action concealed by fraud, &c. limitation to run from discovery of fraud against wrong doer, &c.

10. In actions *ex fraude* the limitation to run from discovery of the fraud.

11, 12. In case of Parties under legal disability to sue, the period of disability not to be reckoned; (12) Such parties being married women under English Law, minors, idiots and lunatics.

13. Period of defendant's absence from India, not to be reckoned as part of the period of limitation, unless process could be served on him.

14. Time employed in suits brought erroneously on specified grounds not to be reckoned in the period of limitation.

15. In suits for recovering possession of movable property after wrongful dispossession, time to run from date of dispossession.

16. Equitable jurisdiction of Supreme Court to refuse relief on grounds of acquiescence not to be affected by this Act.

17. This Act not to extend to any public property on rights or claims of revenue.

18 This Act not to be applied to suits brought within two years from date of its being passed.

19. No proceeding to enforce judgment, &c. of Supreme Courts to be taken after 12 years from accruing of right to some person capable of releasing, &c; except in case of revivor, &c. and then time to run from date of revivor, &c. and Act not to apply to judgment, &c. till 3 years after date of being passed.

20, 21, 22, 23. Judgments, &c. of mofussil Courts not to be enforced by execution, unless revived within 3 years prior to date of its execution. (22) Same as to summary awards of Civil Courts; but (21) and (23) not to apply to existing judgments, &c. or summary awards, &c.

24. Act not to take effect in non-regulation provinces till extended thereto by order of Government.

An Act to provide for the Limitation of Suits.

Preamble.

Whereas it is expedient to amend and consolidate the laws relating to the limitation of suits; It is enacted as follows:—

Limitation of suits.

I. No suit shall be maintained in any Court of Judicature within any part of the British territories in India in which this Act shall be in force unless the same is instituted within the period of limitation hereinafter made applicable to a suit of that nature, any Law or Regulation to the contrary notwithstanding; and the periods of limitation, and the suits to which the same respectively shall be applicable, shall be the following, that is to say.—

Limitation of one year.

Pre-emption suits.

1. To suits to enforce the right of pre-emption, whether the same is founded on law or general usage or on special contract, the period of one year to be computed from the time at which the purchaser shall have taken possession under the sale impeached.

Limitation of one year.

Suits for damages, summary suits, &c.

2. To suits for pecuniary penalties or forfeitures for the breach of any Law or Regulation; to suits for damages for injury to the person and personal property, or to the reputation; to suits for damages for the infringement of copyright, or of any exclusive privilege; to suits to recover the wages of servants, artizans, or laborers, the amount of tavern bills or bills for board and lodging or lodging only; and to summary suits before the Revenue authorities under Regulation V. 1822 of the Madras Code—the period of one year from the time the cause of action arose.

Limitation of one year.

Suits to set aside sales under decrees or for arrears of Government Revenue, &c.

3. To suits to set aside the sale of any property, movable or immovable, sold under an execution of a decree of any Civil Court not established by Royal Charter when such suit is maintainable; to suits to set aside the sale of any property, movable or immovable, for arrears of Government Revenue or other demand recoverable in like manner; to suits by a Putneedar or the proprietor of any other intermediate tenure saleable for current arrears of rent, or other person claiming under him, to set aside the sale of any Putnee Talook

or such other tenure sold for current arrears of rent; to suits to set aside the sale of any property, movable or immovable, sold in pursuance of any decree or order of a Collector or other Officer of Revenue—the period of one year from the date at which such sale was confirmed or would otherwise have become final and conclusive if no such suit had been brought.

Limitation of year.

Suits to set aside attachments, &c. by Revenue Authorities for arrears of Government Revenue.

4. To suits to set aside any attachment, lease, or transfer of any land or interest in land by the Revenue Authorities for arrears of Government Revenue or to recover any money paid under protest in satisfaction of any claim made by the Revenue Authorities on account of arrears of revenue or demands recoverable as arrears of revenue—one year from the date of such attachment, lease, or transfer, or of such payment as the case may be.

Limitation of one year.

Suits to set aside summary decisions, &c.

5. To suits to alter or set aside summary decisions and orders of any of the Civil Courts not established by Royal Charter, when such suit is maintainable—the period of one year from the date of the final decision, award, or order in the case.

Limitation of three years.

Suits to contest certain awards.

6. To suits brought by any person to contest the justice of an award which shall have been made under Regulation VII. 1822, Regulation IX. 1825, and Regulation IX. 1833 of the Bengal Code, or to recover any property comprised in such award—the period of three years from the date of the final award or order in the case.

Limitation of three years.

Suits to recover property comprised in an order made under Clause 2 Section I. Act XVI. of 1838 or Act IV. of 1840.

7. To suits by any party bound by any order respecting the possession of property made under Clause 2 Section I. Act XVI. of 1838, or Act IV. of 1840, of any person claiming under such party, for the recovery of the property comprised in such order—the period of three years from the date of the final order in the case.

Limitation of three years.

Suits for goods sold by retail, &c.

8. To suits to recover the hire of animals, vehicles, boats, or household furniture; or the amount of bills for any articles sold by retail; and to all suits for the rents of any buildings or lands (other than summary suits before the Revenue authorities under Regu-

lation V. 1822 of the Madras Code)—the period of three years from the time the cause of action arose.

Limitation of three years.
Suits for money lent or interest or for breach of contract where no written contract exists.

9. To suits brought to recover money lent or interest, or for the breach of any contract—the period of three years from the time when the debt became due or when the breach of contract in respect of which the suit is brought first took place, unless there is a written engagement to pay the money lent or interest or a contract in writing signed by the party to be bound thereby or by his duly authorized agent.

Limitation of three years.
Suits for the same where there is a written contract which has not been registered within six months.

10. To suits brought to recover money lent or interest, or for the breach of any contract in cases in which there is a written engagement or contract and in which such engagement or contract could have been registered by virtue of any law or Regulation in force at the time and place of the execution thereof—the period of three years from the time when the debt became due or when the breach of contract in respect of which the action is brought first took place, unless such engagement or contract shall have been registered within six months from the date thereof.

Limitation of 12 years.
Suits for specialty-debts and legacies.

11. To suits in cases governed by English law upon all debts and obligations of record and specialties; and to suits for the recovery of any legacy—the period of twelve years from the time the cause of action arose.

Limitation of 12 years.
Suits for immovable property.

12. To suits for the recovery of immovable property or of any interest in immovable property to which no other provision of this Act applies—the period of twelve years from the time the cause of action arose.

Limitation of 12 years.
Suits for shares in joint family property and for maintenance.

13. To suits to enforce the right to share in any property movable or immovable on the ground that it is joint family property; and to suits for the recovery of maintenance, where the right to receive such maintenance is a charge on the inheritance of any estate—the period of twelve years from the death of the persons from whom the property alleged to be joint

is said to have descended, or on whose estate the maintenance is alleged to be a charge; or from the date of the last payment to the plaintiff or any person through whom he claims, by the person in the possession or management of such property or estate on account of such alleged share, or on account of such maintenance as the case may be.

Limitation of 12 years.
Suits to resume or assess Lakheraj or rent-free land.

14. To suits by the proprietor of any land or by any person claiming under him, for the resumption or assessment of any Lakheraj or rent-free land—the period of twelve years from the time when the title of the person claiming the right to resume and assess such lands, or of some person under whom he claims, first accrued. Provided that in estates permanently settled no such suit, although brought within twelve years from the time when the title of such person first accrued, shall be maintained, if it is shown that the land has been held Lakheraj or rent-free from the period of the permanent settlement.

Proviso if the land has been held rent-free from the time of the permanent settlement.

Limitation for 30 and 60 years respectively.
Suits against depositaries, pawnees, or mortgagees to recover immovable property.

15. To suits against a depositary, pawnee, or mortgagee of any property movable or immovable for the recovery of the same—a period of thirty years if the property be movable and sixty years if it be immovable, from the time of the deposit, pawn, or mortgage; or if in the mean time an acknowledgment of the title of the depositor, pawner, or mortgagor, or of his right of redemption, shall have been given in writing signed by the depositary, pawnee, or mortgagee or some person claiming under him, from the date of such acknowledgment in writing.

Limitation of six years applicable to all suits not especially provided for.

16. To all suits for which no other limitation is hereby expressly provided—the period of six years from the time the cause of action arose.

Suits against trustees and their representatives for breach of trust, &c.

II. No suit against a trustee in his lifetime and no suits against his representatives for the purpose of following in their hands the specific property which is the subject of the trust, shall be barred by any length of time; but no suit to make good the loss

occasioned by a breach of trust out of the general estate of a deceased trustee shall be maintained in any of the said Courts unless the same is instituted within the proper period of limitation according to the last preceding Section, to be computed from the decease of such trustee; provided that nothing herein contained shall prevent a co-trustee from enforcing, against the estate of a deceased trustee, any claim for contribution, if he shall institute a suit for that purpose within six years after such right of contribution shall have arisen.

Proviso.

III. When, by any law now or hereafter to be in force, a shorter period of limitation than that prescribed by this Act is specially prescribed for the institution of a particular suit, such shorter limitation shall be applied notwithstanding this Act.

Shorter periods of limitation, if prescribed by particular Acts, to prevail.

IV. If, in respect of any legacy or debt, the person who, but for the law of limitation, would be liable to pay the same, shall have admitted that such debt or legacy or any part thereof is due, by an acknowledgment in writing signed by him, a new period of limitation, according to the nature of the original liability, shall be computed from the date of such admission; provided that, if more than one person be liable, none of them shall become chargeable by reason only of a written acknowledgment signed by another of them.

Revival of right to sue by admission in writing.

Proviso.

V. In suits for the recovery from the purchaser or any person claiming under him of any property purchased *bona fide* and for valuable consideration from a trustee, depositary, pawnee, or mortgagee, the cause of action shall be deemed to have arisen at the date of the purchase. Provided that in the case of purchase from a depositary, pawnee, or mortgagee, no such suit shall be maintained unless brought within the time limited by Clause 15 Section I.

Computation of period of limitation in suits to recover property purchased from depositaries, pawnees, or mortgagees.

Proviso.

VI. In suits in the Courts established by Royal Charter by a mortgagee to recover from the mortgagor the possession of the immovable property mortgaged, the cause of action shall be deemed to have arisen from the latest date at which any portion of principal money or interest was paid on account of such mortgage debt.

Computation of period of limitation in suits in Supreme Courts by mortgagee to recover immovable property mortgaged.

VII. In suits to avoid incumbrances or undertenures in an estate sold for arrears of Government Revenue due from such estate, or in a Putnee Talook or other saleable tenure sold for arrears of rent which by virtue of such sale becomes freed from incumbrances and undertenures, the cause of action shall be deemed to have arisen at the time when the sale of the estate, talook, or tenure became final and conclusive.

Computation of period of limitation in suits to avoid incumbrances or under-tenures in estates sold for arrears of Government Revenue.

VIII. In suits for balances of accounts current between merchants and traders who have had mutual dealings, the cause of action shall be deemed to have arisen at, and the period of limitation shall be computed from the close of the year in the accounts of which there is the last item admitted or proved indicating the continuance of mutual dealings; such year to be reckoned as the same is reckoned in the accounts.

Computation of period of limitation in suits between merchants for balances of accounts current.

IX. If any person entitled to a right of action shall by means of fraud have been kept from the knowledge of his having such right or of the title upon which it is founded, or if any document necessary for establishing such right shall have been fraudulently concealed, the time limited for commencing the action against the person guilty of the fraud or accessary thereto, or against any person claiming through him otherwise than in good faith and for a valuable consideration, shall be reckoned from the time when the fraud first became known to the person injuriously affected by it or when he first had the means of producing or compelling the production of the concealed document.

Computation of period of limitation in case of concealed fraud.

X. In suits in which the cause of action is founded on fraud, the cause of action shall be deemed to have first arisen at the time at which such fraud shall have been first known by the party wronged.

Computation of period of limitation in suits where the cause of action is founded on fraud.

XI. If at the time when the right to bring an action first accrues the person to whom the right accrues is under a legal disability, the action may be brought by such person or his representative within the same time after the disability shall have ceased as would otherwise have been allowed from the time when the cause

Computation of period of limitation in case of legal disability.

of action accrued, unless such time shall exceed the period of three years in which case the suit shall be commenced within three years from the time when the disability ceased; but if, at the time when the cause of action accrues to any person, he is not under a legal disability, no time shall be allowed on account of any subsequent disability of such person or of the legal disability of any person claiming through him.

What persons to be deemed to be under legal disability under preceding Section.

XII. The following persons shall be deemed to be under legal disability within the meaning of the last preceding Section—married women in cases to be decided by English law, minors, idiots, and lunatics.

Computation of period of limitation in case of absence of defendant.

XIII. In computing any period of limitation prescribed by this Act, the time during which the defendant shall have been absent out of the British territories in India shall be excluded from such computation unless service of a summons to appear and answer in the suit can during the absence of such defendant be made in any mode prescribed by law.

Computation of period of limitation in case of suit prosecuted *Bonâ fide*, but in wrong Court.

XIV. In computing any period of limitation prescribed by this Act, the time during which the claimant, or any person under whom he claims, shall have been engaged in prosecuting a suit upon the same cause of action against the same defendant, or some person whom he represents, *bonâ fide* and with due diligence, in any Court of Judicature which, from defect of jurisdiction or other cause, shall have been unable to decide upon it, or shall have passed a decision which, on appeal, shall have been annulled for any such cause, including the time during which such appeal, if any, has been pending, shall be excluded from such computation.

Person unlawfully dispossessed of immovable property may recover possession notwithstanding any title that may be set up.

XV. If any person shall without his consent have been dispossessed of any immovable property otherwise than by due course of law, such person or any person claiming through him shall in a suit brought to recover possession of such property be entitled to recover possession thereof notwithstanding any other title that may be set up in such suit, provided that the suit be commenced within six months from the time of such dispossession. But nothing

Suit for dispossession to be brought within six months.

Suit to establish title not to be affected.

in this Section shall bar the person from whom such possession shall have been so recovered or any other person instituting a suit to establish his title to such property and to recover possession thereof within the period limited by this Act.

Act not to interfere with equitable jurisdiction of Supreme Courts.

XVI. Nothing in this Act contained shall be deemed to interfere with any rule or jurisdiction of any Court established by Royal Charter in refusing equitable relief on the ground of acquiescence or otherwise, to any person whose right to bring a suit may not be barred by virtue of this Act.

Act not to extend to public property, nor to suits for the recovery of public claims.

XVII. This Act shall not extend to any public property or right, nor to any suits for the recovery of the public revenue or for any public claim whatever, but such suits shall continue to be governed by the laws or rules of limitation now in force.

Act not to apply to suits now pending or to suits instituted within two years.

XVIII. All suits that may be now pending or that shall be instituted within the period of two years from the date of the passing of this Act shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted after the expiration of the said period shall be governed by this Act and no other law of limitation, any Statute, Act, or Regulation now in force notwithstanding.

Suits afterwards instituted to be governed by this Act.

Proceedings for enforcing judgments, &c. of Supreme Courts to be taken within twelve years.

XIX. No proceeding shall be taken to enforce any judgment, decree, or order of any Court established by Royal Charter, but within twelve years next after a present right to enforce the same shall have accrued to some persons capable of releasing the same, unless in the meantime such judgment, decree, or order shall have been duly revived or some part of the principal money secured by such judgment, decree, or order or some interest theron shall have been paid, or some acknowledgment of the right thereto shall have been given in writing signed by the person by whom the same shall be payable or his agent to the person entitled thereto or his agent; and in any such case no proceeding shall be brought to enforce the said judgment, decree, or order, but within twelve years after such revivor, payment, or acknowledgment or the latest of such revivors, payments, or ac-

knowledgments as the case may be provided that for three years next after the passing of this Act, every judgment, decree, and order which may be in force at the date of the passing of this Act shall be governed by the law now in force, anything therein contained notwithstanding.

Proviso as to judgments now in force.

XX. No process of execution shall issue from any Court not established by Royal Charter to enforce any judgment, decree, or order of such Court, unless some proceeding shall have been taken to enforce such judgment, decree, or order or to keep the same in force within three years next preceding the application for such execution.

Time for enforcing execution of judgment &c., of a Civil Court not established by Royal Charter.

XXI. Nothing in the preceding Section shall apply to any judgment, decree, or order in force at the time of the passing of this Act, but process of execution may be issued either within the time now limited by law for issuing process of execution thereon or within three years next after the passing of this Act, whichever shall first expire.

Preceding Section not to apply to judgments, &c, in force at the passing of this Act.

XXII. No process of execution shall issue to enforce any summary decision or award of any of the Civil Courts not established by Royal Charter or of any Revenue Authority unless some proceeding shall have been taken to enforce such decision or award or to keep the same in force within one year next preceding the application for such execution.

Time for execution of a summary award of Civil Court or Revenue Authority.

XXIII. Nothing in the preceding Section shall apply to any summary decision or award in force at the time of the passing of this Act, but process of execution may be issued either within the time now limited by law for issuing process of execution thereon or within two years next after the passing of this Act whichever shall first expire.

Preceding Section not to apply to summary awards in force at the passing of this Act.

XXIV. This Act shall take effect throughout the Presidencies of Bengal, Madras, and Bombay, including the Presidency Towns and the Straits' Settlement; but shall not take effect in any Non-regulation Province or place until the same shall be extended thereto by public notification by the Governor General in Council or by the

Operation of Act.

local Government to which such Province or place is subordinate.

Trial of pending suits, &c., in any Non-Regulation Province or place to which the Act is extended.

Whenever this Act shall be extended to any Non-Regulation Province or place by the Governor General in Council or by the local Government to which such Province or place is subordinate, all suits which within such Province or place shall be pending at the date of such notification or shall be instituted within the period of two years from the date thereof, shall be tried and determined as if this Act had not been passed; but all suits to which the provisions of this Act are applicable that shall be instituted within such Province or place after the expiration of the said period, shall be governed by this Act and by no other law of limitation, any Statute, Act, or Regulation now in force notwithstanding.

PATENTS.

ACT No. XV. OF 1859.

[*Passed on the 17th May*, 1859.

Recites Act VI. 1856 and the opinion of Her Majesty's Law officers that the Leg. C. was not competent to pass it, and its disallowance and subsequent repeal. Also recites the expediency of making a patent law. Enacts.

1, 2, 3, 4. Entitles inventor of any new manufacture to petition the G. G. in C. for leave to file a specification thereof, and gives a form of petition; and (2) authorizes the G. G. in C. to grant petition; but (3) he may previously refer the petition to be reported upon; and (4) if within six months after date of order, specification be filed, the petitioner, &c. shall be entitled to sale and exclusive privilege, &c. for 14 years and for such further term not exceeding 14 years more as G. G. in C. may direct upon petition within specified time.

5. Order authorizing the filing of specification, &c may be made subject to any conditions and restrictions the G. G. in C. may direct.

6. Specification shall be in writing and signed, and describe and ascertain the nature of the said invention, &c.

7, 8. Petition for leave to file specification shall be left with Secretary to the Gt. of I. in the Home Dt. and be accompanied with declaration in form prescribed, by inventor or agent, as the case may be; and (8) any false statement in declaration shall be equivalent to perjury.

9. No specification to be filed until prepayment of fees, &c.

10. At time of delivering specification, 5 copies to be left with it for local Government, &c.

11, 12, 13. Book to be kept in office of Sec. to Government to record the petition and specification and order for same and all orders relating thereto (12) such book to be open to inspection and copy from given, &c. on payment of fee and (13) such copy to be *primâ facie* evidence.

14. If from mistake or inadvertence mis-statement has been made in petition or specification or something not new or not invented by petitioner is stated, &c. the petitioner may petition G. G. in C. for leave to file an amended specification; petition to state how the error, &c. occurred, and to deny fraudulent intention.

15. No person to be entitled to exclusive privilege if the invention is not useful, or not new or not by the petitioner, or if the specification has defects specified or contains wilful or fraudulent mis-statement.

16. Every exclusive privilege shall cease, if G. G. in C. shall declare it or the mode in which it is exercised is mischievous to the State, &c. or if breach of condition be established in Supreme Court and G. G. in C. annul the privilege.

17. Importer of new invention not entitled to file specification.

18. Foreign inventor may petition.

19. An invention shall be deemed new if it shall not have been publicly used in India or the U. K. or made known by means of publication. But public use or knowledge to be of no effect if made in fraud or breach of confidence; unless acquiesced in; and public use by or for the inventor himself for a year, &c. not to prevent his taking out a patent.

20. Inventor having English patent may petition for Indian patent within 12 months after date of English patent, &c. and invention shall be deemed new if not used or known in India, &c. before date of English patent, &c.

21. Exclusive privilege not to affect any person who used the invention in India prior to 7th July 1855.

22. Action may be maintained for infringement of patent right; but only in local Court of district in which cause of action arose or defendant shall reside.

23. Action shall not be defended on ground of defect &c., of specification or of wilful or fraudulent mis-statement in petition, &c. or of invention not being useful or of patentee not being the inventor, unless the defendant was the inventor, &c. or of its not being new, except in case of previous use of the invention by the defendant.

24, 25. Any person may apply by motion to Supreme Court for rule to show that no exclusive privilege has been acquired on any of several specified grounds, viz that the invention is not useful, that petitioner was not the inventor, that the specification is insufficient or fraudulent or too extensive or that petition was wilfully false &c. or that part of invention is insufficiently described, &c.; or (25) that such part is distinct from the rest and of no utility, or that such was not new or not the invention of petitioner, or that the description of such part, &c is insufficient.

26. Authorizes the A. G., by order of the G. G. in C., to apply to Supreme

Court for rule for a trial by any issue of any grounds on which the G. G. in C. may annul the patent.

27. Rules under ss. 24, 25 and 26 to be served on proprietors of invention, &c.

28. Supreme Court may direct an issue and try or send the same for trial to another Court in a summary way and may order new trial, &c.

29, 30. Supreme Court on application under ss. 24, 25, to give judgment that exclusive privilege has not been acquired according to its opinion, costs to be at its discretion; or (30) in case it shall think that there was error of specified kind in the petition, &c. may adjudge the privilege to be valid and allow an amendment.

31. Exclusive privilege shall not be defeated for mis-statement in petition unless it was fraudulent.

32. Secretary to Government to cause entry on the registered specification, of order of Supreme Court, in specified case.

33. Court within whose jurisdiction patentee resides may compel him to assign the patent right to the actual inventor, if himself is not so.

34. In action for infringement of patent plaintiff shall deliver particulars of the breaches and defendant particulars of his grounds for denying the plaintiff's title to exclusive privilege: similar particulars to be deliverd in proceedings under ss. 24, 25, 26, and trial to be confined to grounds notified, but particulars may be amended by leave of Court.

35 Book to be kept in office of Sec. to Govt. in which every patentee or his assignee shall cause to be stated some place in India where he may be served with rules under this Act, and service accordingly shall be valid.

36. Act VI. 1856 to be of same force and effect as if valid, in regard to proceedings had under it; and importers to have the benefit of it if availed of within 2 years after passing of this Act.

37. Petition for leave to file a specification to be on stamp of 100 rupees.

38. Interpretation of words.

An Act for granting exclusive privileges to Inventors.

Preamble.

Whereas Act VI. of 1856, entitled "An Act for granting exclusive privileges to Inventors," was passed by the Legislative Council of India without the sanction of Her Majesty to the passing thereof having been previously obtained and signified in pursuance of the Statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India:" and whereas Her Majesty's Law Officers having given it as their opinion that the Legislative Council of India was not competent to pass Act VI. of 1856 without previously obtaining the sanction of the Crown, and the Court of Directors of the East India Company having in pursuance of the power vested in them

by law disallowed Act VI. of 1856 and having signified to the Governor General of India in Council their disallowance thereof, the said Act was repealed by Act IX. of 1857; and whereas it is expedient, for the encouragement of Inventors of new manufactures, that certain exclusive privileges in their inventions should be granted to them in India, and that exclusive privileges obtained under the said Act should be protected: It is enacted as follows (The sanction of Her Mejesty to the passing of this Act having been previously obtained and signified in pursuance of the said Statute):—

Inventor may petition for leave to file specification.

I. The inventor of any new manufacture may petition the Governor General of India in Council for leave to file a specification thereof. Every such petition shall be in writing in the form or to the effect mentioned in the Schedule hereunto annexed, and shall be signed by the petitioner, or, in case the petitioner shall be absent from India, by an authorized agent, and shall state the name, addition, and place of residence of the petitioner, and the nature of the invention.

Form &c. of petition.

Order to file specification.

II. Upon such petition, the Governor General of India in Council may make an order authorizing the petitioner to file a specification of the invention.

Power to refer petition for enquiry and report

III. Before making such order, the Governor General of India in Council may refer the petition to any person or persons for enquiry and report, and such person or persons shall be entitled to a reasonable fee for such enquiry and report to be paid by the petitioner: the amount of such fee, in case of dispute, to be settled by a Judge of one of Her Mejesty's Courts of Judicature in a summary manner.

Petitioner entitled to exclusive privilege for 14 years from the time of filing specification.

IV. If, within the space of six calendar months from the date of such order, the petitioner cause a specification of his invention to be filed in manner hereinafter mentioned, the petitioner, his executors, administrators, or assigns, shall be entitled to the sole and exclusive privilege of making, selling, and using the said invention in India, and of authorizing others so to do, for the term of fourteen years from the time of filing such specification, and for such further term (if any), not

Extension of term of exclusive privilege.

exceeding fourteen years from the expiration of the first fourteen years, as the Governor General of India in Council may think fit to direct, upon petition to be presented by such inventor, at any period not more than one year, and not less than six calendar months, before the expiration of the exclusive privilege hereby granted.

Order to file specification may be made subject to conditions.

V. An order authorizing the filing of a specification, or for extending the term of such exclusive privilege as aforesaid, may be made subject to any such conditions and restrictions as the Governor General of India in Council may think expedient.

Specification to be in writing and to describe the invention.

VI. Every specification of an invention filed under this Act shall be in writing, and shall be signed by the petitioner, and shall particularly describe and ascertain the nature of the said invention and in what manner the same is to be performed.

Petition and specification to be left with Secretary to Government.

VII. Every petition for leave to file a specification and every specification filed under this Act shall be left with the Secretary to the Government of India in the Home Department, and every petition and specification shall be accompanied by a declaration in writing signed by the petitioner in the forms or to the effect mentioned in the Schedule hereunto annexed, and if the inventor be absent from India, the petition and specification shall also be accompanied by a declaration signed by the agent who shall present or file the same, to the effect that he verily believes that the declaration purporting to be the declaration of the inventor was signed by him, and that the contents thereof are true, which declaration shall be in the form or to the effect mentioned in the said Schedule. The date of the delivery of every such petition and specification shall be endorsed on the same respectively, and shall also be recorded at the Office of the said Secretary.

Petition &c. to be accompanied by declaration.

Date of delivery to be endorsed on petition.

VIII. If any person, who shall make a declaration under this Act, shall wilfully and corruptly make any false statement therein, he shall be deemed guilty of perjury, and shall be proceeded against, and upon conviction punished accordingly.

False statement in declaration punishable as perjury.

IX. No specification shall be filed until the petitioner shall

Specification not to be filed before payment of fees.

have paid all fees payable under this Act, including the fees (if any) of the person or persons to whom the petition shall have been referred for enquiry and report.

X. At the time of delivering the specification for the purpose of being filed, the petitioner shall cause to be delivered to the said Secretary five copies thereof, of which

Copies of specification to be delivered and distributed.

One shall be sent to and filed by one of the Secretaries to the Government of Bengal;

One shall be sent to and filed by one of the Secretaries to the Government of Fort St. George;

One shall be sent to and filed by one of the Secretaries to the Government of Bombay; and

One shall be sent to and filed by one of the Secretaries to the Government of the North-Western Provinces.

A copy of such specification shall be open at all reasonable times at the Office of each of the said Secretaries to public inspection upon payment of a fee of one Rupee.

To be open to inspection.

XI. A book shall be kept in the Office of the said Secretary to the Government of India wherein shall be entered and recorded every such petition and specification and every order made upon such petition or relating to the invention therein mentioned. Every specification shall be numbered according to the order in which it is entered in such book; and a reference shall be made in such book, in the margin of the entry of each specification, to every order relating to the invention, and to every petition, memorandum, or amended specification which shall be filed under the provisions of Section XIV.

Book for the registry of petitions, specifications, &c.

XII. Such book, or a copy thereof, shall be open at all convenient times for the inspection of any person upon payment of a fee of one Rupee; and the said Secretary shall cause a copy of any entry therein, certified under his hand, to be given to any person requiring the same, on payment of the expense of copying.

Inspection of registry book.

Certified copy of entry to be given.

XIII. Every such certified copy shall be *primâ facie* evi-

Certified copy to be *primâ facie* evidence.

dence of the document of which it purports to be a copy.

In what cases petitioner may apply for leave to file amended specification.

XIV. If, after the filing of the specification, the petitioner shall have reason to believe that through mistake or inadvertence he has erroneously made any mis-statement in his petition or specification or included therein something which at the date of his petition was not new or whereof he was not the inventor, or that such specification is in any particular defective or insufficient, he may petition the Governor General in Council for leave to file a memorandum pointing out such error, defect, or insufficiency, and disclaiming any part of the alleged invention, or, in case of any defect or insufficiency of the specification, for leave to file an amended specification. The petition shall state how the error, defect, or insufficiency occurred and that it was not fraudulently intended, and shall be accompanied by a declaration in writing signed by the petitioner and if he be absent from India by his agent stating that the contents of such petition are true to the best of his knowledge and belief. Upon such petition the Governor General in Council may make an order allowing such memorandum or amended specification to be filed. All the provisions of Sections X, XI, XII, and XIII, applicable to specifications, shall be applicable to the petitions, orders, and memoranda or amended specifications referred to in this Section.

Effect of amended specification.

An amended specification filed under the provisions of this Act shall, except as to suits or proceedings relating to the exclusive privilege which shall be pending at the time of the filing of such amended specification, have the same effect as if it had been the specification first filed, provided that nothing contained in an amended specification shall extend or enlarge any exclusive privilege before acquired.

No person entitled to exclusive privilege in any of the following cases—

XV. No person shall be entitled to any exclusive privilege under the provisions of this Act—

If invention of no utility, or

If the invention is of no utility, or

If invention not new or.

If the invention, at the time of presenting the petition for leave to fill the specification, was not a new invention within the meaning of this Act, or

If petitioner is not inventor, or

If the petitioner is not the inventor thereof, or

If the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention and in what manner the same is to be performed, or

If specification does not describe the invention.

If the original or any subsequent petition relating to the invention, or the original or any amended specification contain a wilful or fraudulent misstatement.

If petition or specification contain wilful or fraudulent misstatement.

XVI. Every exclusive privilege under this Act shall cease if the Governor General of India in Council shall declare that the same, or the mode in which it is exercised, is mischievous to the State, or generally prejudicial to the public; or if a breach of any special condition on which the petitioner shall be authorized to file a specification, or upon which the term of the exclusive privilege shall be extended, shall be proved to the satisfaction of any of Her Majesty's Courts of Judicature, and if the Governor General of India in Council shall thereupon declare that such exclusive privilege shall cease.

Exclusive privilege to cease if Government declare it mischievous &c. to public.

Or if Government upon breach of condition proved, declare that it shall cease.

XVII. The importer into India of a new invention shall not be deemed an inventor within the meaning of this Act, unless he be the actual inventor.

Importer of invention, if not the actual inventor, not to be deemed inventor.

XVIII. A foreigner, whether resident abroad or not, may petition for leave to file a specification under this Act.

Foreign inventor.

XIX. An invention shall be deemed a new invention within the meaning of this Act, if it shall not, before the time of applying for leave to file the specification, have been publicly used in India or in any part of the United Kingdom of Great Britain and Ireland, or been made publicly known in any part of India or of the United Kingdom by means of a publication, either printed or written or partly printed and partly written. The public use or knowledge of an invention, prior to the application for leave to file a specification, shall not be deemed a public use or knowledge within the meaning

An invention not publicly used or known in the United Kingdom or in India before the application for leave to file his specification to be deemed a new invention within this Act.

Knowledge of invention fraudulently acquired.

of this Section, if the knowledge shall have been obtained surreptitiously or in fraud of the inventor, or shall have been communicated to the public in fraud of the inventor or in breach of confidence: provided the inventor shall, within six calendar months after commencement of such public use, apply for leave to file his specification, and shall not previously have acquiesced in such public use; provided also that the use of an invention in public by the inventor thereof, or by his servants, or agents, or by any other person by his license in writing, for a period not exceeding one year prior to the date of his petition, shall not be deemed a public use thereof within the meaning of this Act.

Proviso.

Public use by inventor.

XX. If an inventor who, prior to the time of applying for leave to file a specification of an invention under this Act, shall have obtained Her Majesty's Letters Patent for the exclusive use of such invention in the United Kingdom or any part thereof shall, within twelve calendar months from the passing of this Act, or within twelve calendar months from the date of such Letters Patent, petition the Governor General of India in Council for leave to file a specification of such invention (which petition shall be in writing in the form or to the effect mentioned in the Schedule), the invention shall be deemed a new invention within the meaning of this Act, if it was not publicly known or used in India at or before the date of the petition for such Letters Patent, notwithstanding it may have been publicly known or used in some part of the United Kingdom or in India before the time of his petitioning, under this Act, for leave to file the specification; Provided the petition for leave file the specification shall state that such Letters Patent have been granted, and shall also state the date thereof and the term during which the same are to continue in force. Provided also that an exclusive privilege, obtained under the provisions of this Act by an inventor who has obtained Her Majesty's Letters Patent for the exclusive use of such invention, shall cease to have effect, if such Letters Patent be revoked or cancelled; and that no such exclusive privilege

Inventor having obtained English Letters Patent, to petition within 12 months from the passing of this Act or from the date of the Letters Patent.

Invention if not publicly known or used in India at the time of applying for such Letters Patent to be deemed new.

What to be stated in such petition.

Duration of exclusive privilege.

shall extend beyond the term granted by such Letters Patent unless the same shall be renewed, in which case the exclusive privilege may be renewed under this Act for the extended term or any part thereof.

Saving of rights of persons who used invention before 7th of July 1855.

XXI. No exclusive privilege obtained under this Act shall entitle the owner of such privilege to exclude any person from using the invention, who, prior to the 7th day of July 1855, used the same in India.

Action for infringement.

XXII. An action may be maintained by an inventor against any person who, during the continuance of any exclusive privilege granted by this Act, shall, without the license of the said Inventor, make, use, sell, or put in practice the said invention, or who shall counterfeit or imitate the same. Provided that no such action shall be maintained in any Court other than the principal Court of original jurisdiction in Civil cases within the local limits of whose jurisdiction the cause of action shall accrue or the defendant shall reside as a fixed inhabitant.

Defect in specification or petition, or want of novelty in Invention, &c. no defence to action for infringement.

XXIII. No such action shall be defended upon the ground of any defect or insufficiency of the specification of the invention, nor upon the ground that the original or any subsequent petition relating to the invention, or the original or any amended specification contains a wilful or fraudulent mis-statement, nor upon the ground that the invention is not useful; nor shall any such action be defended upon the ground that the plaintiff was not the inventor, unless the defendant shall show that he is the actual inventor or has obtained a right from him to use the invention either wholly or in part.

The actual use of an invention in India or the United Kingdom before date of petition, a defence to such action.

Any such action may be defended upon the ground that the invention was not new, if the person making the defence, or some person through whom he claims, shall, before the date of the petition for leave to file the specification, have publicly or actually used in India or in some part of the United Kingdom, the invention, or that part of it of which the infringement shall be proved; but not otherwise.

XXIV. It shall be lawful for any person to apply by motion

Application to Supreme Courts to declare exclusive privilege not to have been acquired on following grounds—

to any of Her Majesty's Courts of Judicature for a rule to show cause why the Court should not declare that an exclusive privilege in respect of an invention has not been acquired under the provisions of this Act by reason of all or any of the objections following (to be specified in the rule), that is to say—

Invention of no utility.

That the said invention is of no utility, or

Invention not new.

That the said invention was not, at the time of presenting the petition for leave to file the specification a new invention within the meaning of this Act, or

Petitioner not the inventor.

That the petitioner was not the inventor thereof, or

Invention not described in specification.

That the specification filed or the amended specification (if any) does not particularly describe and ascertain the nature of the invention or in what manner the same is to be performed, or

Fraud in petition or specification.

That the petitioner has knowingly or fraudulently included in the petition or specification or amended specification, as part of his invention, something which was not new or whereof he was not the inventor, or

Fraudulent mis-statement in petition or specification.

That the original or any subsequent petition relating to the invention or the original or any amended specification contains a wilful or fraudulent mis-statement, or

Insufficient description of part of invention in specification.

That some part of the invention, or the manner in which that part is to be performed as described in the specification filed or the amended specification, is not thereby sufficiently described and ascertained, and that such defect or insufficiency was fraudulent and is injurious to the public.

Like application as to part of an invention.

XXV. Any person may, in like manner, apply to any of Her Majesty's Courts of Judicature for a rule to show cause why the Court should not declare that an exclusive privilege has not been acquired under the provisions of this Act in respect of any part of the invention to be specified in the rule by reason of all or any of the objections following (to be specified in the rule) that is to say—

That such part of the invention is wholly distinct from the other part thereof and is of no utility, or

That such part of the invention was not, at the date of the petition for leave to file the specification, a new invention within the meaning of this Act, or

That the petitioner was not the inventor of that part of the invention, or

That that part of the invention, and the manner in which it is to be performed, is not sufficiently described and ascertained in the specification filed or the amended specification, and that such defect or insufficiency is injurious to the public.

Application by Advocate General on breach of special condition.

XXVI. It shall be lawful for the Advocate General at any of the Presidencies of Fort William in Bengal, Fort St. George, and Bombay, or any other person, by order of the Governor General in Council, apply to any of the said Courts of Judicature for a rule calling upon the petitioner, his executors, administrators, or assigns, to show cause why the question of the breach of any special condition upon which the leave to file a specification has been granted, or any other question of fact on which the revocation of the exclusive privilege by the Governor General in Council under the power hereinbefore reserved may in the judgment of the said Governor General in Council, depend, should not be tried in the form of an issue directed by the said Court; and if the rule be made absolute, the Court unless the breach or other matter of fact be admitted, may thereupon direct such issue to be tried, and certify the result of such trial to the Governor General in Council. The costs of such trial, and also the costs of any proceedings in any of the said Courts of Judicature under the provisions of this Act, shall be in the discretion of the Court.

Service of proceedings on all persons interested.

XXVII. Notice of any rule obtained or proceeding taken under either of the last three preceding Sections shall be served on all persons appearing to be proprietors or to have shares or interests in the exclusive privilege under the provisions of Section XXXV. of this Act, and it shall not be necessary to serve such notice on any other persons.

XXVIII. Any of the said Courts of Judicature, if it think

Supreme Court may direct issue for trial to other Court.

fit, may direct an issue for the trial, before the same Court or any other Court of Judicature or any principal Court of original jurisdiction in Civil cases, of any question of fact arising upon an application under Sections XXIV., XXV., or XXVI. of this Act, and such issue shall be tried accordingly in a summary manner, and, if the issue be directed to another Court, the findiug shall be certified by the Court before which the same was tried, to the Court directing the issue. If the issue be directed to any Court of Judicature, the Court by which the issue is tried may, before the finding is certified, direct a new trial of such issue according to the usual course and practice of such Court. If the issue be directed to any Court other than a Court of Judicature, the finding shall not be subject to appeal, but the evidence taken upon the trial shall be recorded, and a copy thereof, certified by the Judge, shall be transmitted, together with any remarks he may think fit to make thereon, to the Court by which the issue was directed; and such Court may either act upon the decision of the Court which tried the issue, or direct a new trial if it shall appear necessary.

New trial.

XXIX. If it shall appear to any of the said Courts of Judicature at the hearing of any application under the provisions of Sections XXIV. or XXV. of this Act that, by reason of any of the objections therein mentioned, the said exclusive privilege in the invention or in any part thereof has not been acquired, the Court shall give Judgment accordingly, and shall make such order as to the costs of and consequent upon the application as it may think just; and thereupon the petitioner, his executors, administrators, and assigns shall, so long as the judgment continues in force, cease to be entitled to such exclusive privilege.

Judgment.

Costs.

XXX. If the Court, at the hearing of any such application as last aforesaid, shall think that the petitioner has, in the description of his invention in the petition or specification or amended specification (if any), included something which at the date of the petition was not new or whereof he was not the inventor, or that the specification is in any particular defective or insufficient, but that

Amendment of specification by Court.

the error, defect, or insufficiency was not fraudulently intended, the Court may adjudge the said exclusive privilege to have been acquired and to be valid, save as to the part thereof affected by such error, defect, or insufficiency, or if the Court shall think that the error, defect, or insufficiency can be amended without injury to the public, they may adjudge the exclusive privilege in the whole invention to be valid, and may, upon such terms as shall appear reasonable, order the specification to be amended in any of the said particulars; and thereupon the petitioner, his executors, administrators, or assigns shall, within the time limited by the said Court for the purpose, file a specification amended according to such order. Provided that no such amended specification shall have the effect of extending or enlarging the exclusive privilege before acquired.

Proviso.

XXXI. An exclusive privilege shall not be defeated upon the ground that the petition contains a mis-statement, unless such mis-statement was wilful or fraudulent.

Mis-statement in the petition, if not fraudulent, not to defeat the privilege.

XXXII. Whenever it shall be adjudged by any of the said Courts of Judicature that an exclusive privilege as to the whole or any part of an invention has not been acquired, the said Secretary to the Government of India shall, upon the production of the judgment or order, cause an entry thereof to be made in the said book hereinbefore directed to be kept, and shall cause a reference to such entry to be made in the margin of the entry of the specification contained in such book.

Entry in registry book of judgment &c. declaring privilege not to have been acquired.

XXXIII. If, upon proceedings instituted within two years from the date of a petition to file a specification, the actual inventor shall prove to the satisfaction of the principal Court having jurisdiction in Civil cases within the local limits of whose jurisdiction the defendant shall reside as a fixed inhabitant, that the petitioner was not the actual inventor, and that at the time of the petition he knew or had good reason to believe that the knowledge of the invention was obtained by himself or by some other person surreptitiously or in fraud of the actual inventor, or by means of a communication made in confidence by the actual inventor to him or to any person through whom he de-

In what case actual inventor entitled to assignment of an exclusive privilege fraudulently obtained.

rived such knowledge, the Court may compel the petitioner to assign to the actual inventor any exclusive privilege obtained under this Act and to account for and pay over the profits thereof.

Particulars to be delivered.

XXXIV. In any action for the infringement of such exclusive privilege, the plaintiff shall deliver with his plaint particulars of the breaches complained of in the said action; and the defendant shall deliver a written statement of the particulars of the grounds (if any) upon which he means to contend that the plaintiff is not entitled to an exclusive privilege in the invention. In like manner, upon any application to any of the said Courts of Judicature under Sections XXIV., XXV., or XXVI. of this Act, the applicant shall deliver particulars of the objections on which he means to rely. At the trial of any such action or issue, no evidence shall be allowed to be given in support of any alleged infringement or of any objection impeaching the validity of such exclusive privilege which shall not be contained in the particulars delivered as aforesaid. If it be alleged that the invention was publicly known or used prior to the date of the petition for leave to file such specification, the places where and the manner in which the invention was so publicly known or used shall be stated in such particulars. Provided always that it shall be lawful for any Court in which the action or proceeding is pending, or in which the issue is tried, to allow the plaintiff or defendant respectively to amend the particulars delivered as aforesaid upon such terms as shall seem fit.

Service of Proceedings.

XXXV. A book shall be kept in the Office of the Secretary to the Government of India in the Home Department (such book to be open to inspection without fee) wherein every person filing a specification under this Act, or any person to whom the exclusive privilege may be assigned, shall cause to be stated some place in India where service of any rule or proceedings for the purpose of cancelling or revoking his exclusive privilege may be made, and shall cause a reference to such entry to be made in the margin of the entry of the specification, and may from time to time cause any other place in India to be substituted by a similar entry and reference. All such rules and proceedings as aforesaid shall be deemed sufficiently served if a copy thereof be left at the place entered in such book or (if any other place be substituted for the same by entry in the said

book) at the place last substituted, by delivering the same to any person resident at, or in charge of, such place: or, if there be no person resident at, or in charge of such place, or if such place be not within the local limits of the jurisdiction of the Court, by causing such rule or proceeding to be sent by Post by a registered letter directed to such person at such place; and if any such person shall neglect to make or cause to be made such entry, the service of such rule or proceeding may be effected by affixing a copy thereof to some conspicuous part of the Court-house or in such other manner as the Court may direct.

Act VI. of 1856 to have effect in respect of certain specifications filed and acts done.

XXXVI. Act VI. of 1856 shall be of the same force and effect in respect to every petition and specification filed under the provisions thereof before the Act was repealed, and in regard to all proceedings consequent thereon or in relation thereto, and for the purpose of every thing done under that Act while it continued in force, as if previously to the passing of the said Act the sanction of Her Majesty to the passing thereof had been obtained and signified in pursuance of the statute passed in the seventeenth year of the reign of Her Majesty, entitled "An Act to provide for the Government of India," and as if the said Act had not been repealed; and the term of every exclusive privilege obtained under the said Act is hereby extended and shall continue until the expiration of fourteen years from the time of the passing of this Act. No exclusive privilege obtained under the said Act by an importer not being the actual inventor shall cease to have effect by virtue of the provisions of Section XVI. of the said Act if the invention be put in practice in India within the period of two years from the time of the passing of this Act.

Stamp on petition

XXXVII. Every petition for leave to file a specification under the provisions of this Act, or for the extension of the term of an exclusive privilege, shall be written or printed on stamped paper of the value of one hundred Rupees.

Interpretation.

XXXVIII. In the construction of this Act, the following words and expressions shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction.

Words importing the singular number shall include the plural

Number. number, and words importing the plural number shall include the singular number.

Gender. Words importing the masculine gender shall include females.

"Invention." The word "invention" shall include an improvement.

"Manufacture." The word "manufacture" shall be deemed to include any art, process, or manner of producing, preparing or making an article, and also any article prepared or produced by manufacture.

"Printed." The word "printed" shall include "lithographed."

"Inventor" and "actual inventor." The words "inventor" and "actual inventor" shall include the executors, administrators, or assigns of an inventor or actual inventor as the case may be.

"Assigns." The word "assigns" shall include grantees of the sole use or benefit in India of an invention, or of the sole use of an exclusive privilege for a limited time.

"India." The word "India" shall mean the territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "an Act for the better Government of Inda."

"Governor General in Council. The words "Governor General in Council" shall include the "President in Council."

"Secretary to the Government of India. The words "Secretary to the Government of India" shall include any Under Secretary to the said Government.

"Her Majesty's Courts of Judicature." "Courts of Judicature." The expressions "Her Majesty's Courts of Judicature" and "Courts of Judicature" shall mean the Courts established by Royal Charter.

SCHEDULE OF FORMS.

Form of Petition *(see Section* I.*)*

To the Governor General of India in Council.

The petition of *(here insert name, addition, and place of residence)* for leave to file a specification under Act No. XV. of 1859.

SHEWETH,

That your petitioner is in possession of an invention for *(state the title of the invention,)* which invention he believes will be of public utility; that he is the inventor thereof *(or, as the case may be, the assignee or the executor or administrator of the inventor)*; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of his knowledge and belief.

The following is a description of the invention *(here describe it.)*

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV. of 1859.

And your petitioner, &c.,

(Signed)

The day of

FORM OF DECLARATION TO ACCOMPANY PETITION.

(See Section VII.)

I *(here insert name, addition, and place of residence)* do solemnly and sincerely declare that I am in possession of an invention for *(state the title of the invention as in the petition)*; that I believe the said invention will be of public utility; that I am the inventor thereof *(or, as the case may be, the assignee or executor or administrator of the inventor)*; and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that, to the best of my knowledge and belief, my said inventor is truly described in my petition for leave to file a specification thereof.

The day of

(Signed)

FORM OF DECLARATION TO ACCOMPANY SPECIFICATION.

(See Section VII.)

I *(here insert name, addition, and place of residence)* do solemnly and sincerely declare that I am in possession of an invention for *(state the nature of the invention,)* which invention I believe will be of public utility; that I am the inventor thereof *(or, as the case may be, the assignee or executor or ad-*

ministrator of the inventor) and that the same is not publicly known or used in India or in any part of the United Kingdom of Great Britain and Ireland to the best of my knowledge and belief; and that, to the best of my belief, the instrument in writing under my hand hereunto annexed particularly describes and ascertains the nature of the said invention and in what manner the same is to be performed.

The day of

(Signed)

FORM OF DECLARATION BY AGENT WHEN AN INVENTOR IS ABSENT FROM INDIA.

(See Section VII.)

I of

do solemnly and sincerely declare that I have been appointed by the said

his Agent for the purpose of

; and I verily believe that the declaration purporting to be the declaration of the said marked ( ) was signed by him, and that the contents thereof are true.

The day of

(Signed)———

FORM OF PETITION—(*See Section* XX.)

That your petitioner (*or, as the case may be, that A. B. of whom your petitioner is the assignee or executor or administrator*) has obtained Her Majesty's Letters Patent dated the day of for *(state the title of the invention,)* and that such Letters Patent are to continue in force for years. That your petitioner believes that the said invention is not now and has not hitherto been publicly known or used in India.

The following is a description of the invention *(here describe it.)*

Your petitioner therefore prays for leave to file a specification of the said invention pursuant to the provisions of Act No. XV. of 1859.

And your petitioner, &c.

(Signed)

The day of

NABOB OF THE CARNATIC.

ACT NO. XVI. OF 1859.

[*Passed on the* 18*th June*, 1859.

Recites doubts as to operation of Act XXX. 1858, s. 14.

1. Declares that no debt of the Prince contracted during his infancy shall be deemed within the said Section unless proved to be necessary, &c. or such proof is dispensed with by government.

2. Empowers the Court to award costs under Act XXX. 1858, s. 22.

3. Declares that the said Act was not intended to exclude an appeal to H. M. in C.

An Act to explain Act XXX. of 1858 (to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic.)

Preamble.

Whereas doubts have arisen whether certain debts contracted by Prince Azeem Jah Bahadoor during the infancy of the late Nabob of the Carnatic were debts or claims within the meaning of Section XIV. or any subsequent Section of Act XXX. of 1858; and whereas it is expedient to remove such doubts as well as other doubts which exist as to the power of the Supreme Court of Judicature at Madras to award costs in investigations under Section XXII. of the said Act, and as to whether cases so investigated are appealable to Her Majesty in Council; It is declared and enacted as follows:—

Debts contracted by Prince Azeem Jah Bahadoor during the Minority of the Nabob.

I. No debt contracted by the said Prince Azeem Jah Bahadoor during the minority of the said late Nabob shall be deemed a debt or claim within the meaning of the said Section XIV. or any subsequent Section of the said Act, unless it shall be proved that it was necessary and proper that such debt should be incurred on behalf or for the use of the said Nabob, and that the same was so contracted; or unless the Governor in Council of Fort Saint George shall dispense with such proof.

Power to award costs.

II. Upon any investigation under Section XXII. of the said Act, it shall be lawful for the Court, except as otherwise provided by the said Act, to award costs to either party and to cause the same to be levied in the same manner as costs in an ordinary suit.

III. It is hereby declared that it was not the intention of the said Act to exclude from appeal to Her Majesty in Council any awards, orders or decisions of the said Supreme Court made upon any investigation under Section XXII. as aforesaid.

Appeal to the Queen in Council.

BOMBAY ISLAND.--ABKAREE.

ACT NO. XVII. OF 1859.

[*Passed on the* 16*th July*, 1859.

Recites expediency of increasing the taxes on specified licenses and of prohibiting manufacture of spirits except from specified juice.

1. Repeals Bombay R. 10, 1833.

2. Abkaree revenue to be conducted by Collector or under his farmer.

3, 4. Prohibits manufacture except from juice of Brab or Cocoanut tree, and the mixture of other juice; and (4) person contravening this law to be liable to penalty, &c. and to forfeit implements, &c.

5, 6. Prohibits manufacture and trade, except under license; and (6) persons contravening the law, to be liable to penalty, &c. and forfeit implements, &c.

7. Collector, with sanction of Government, may prescribe rules respecting grant of licenses and use of stills, &c.

8. License shall specify the number, &c. of trees to be drawn, place at which manufacture may be carried on and other specified particulars.

9. Amount of fee on duty to be fixed by Collector.

10. Arrear of fee on duty may be recovered by distress and sale of goods, &c.

11. Any person drawing liquor, &c. contrary to terms of license to be liable to specified penalty.

12. Collector may cancel licenses for non-payment of fee or other breach of condition.

13. Every fine or penalty may be recovered by summary proceeding before J. P. &c.

14. Fines and confiscations to belong to Government but a moiety of the fine may be distributed as reward of informers, &c.

15. Interprets the words "Island of Bombay."

An Act to amend the law for the realization of Revenue from Abkaree in the Island of Bombay.

Preamble.

Whereas it is expedient to raise the taxes chargeable in respect of licenses for drawing liquor from Cocoanut, Brab or Date Trees in the Island of Bombay, and to prohibit the manufacture in the Island of Bombay of any

spirituous liquor except from the juice of Cocoanut Brab or Date Trees; It is enacted as follows:—

Repeal of Regulation.

I. From and after the commencement of this Act, Regulation X. 1833 of the Bombay Code *(prescribing Rules for the realization of revenue from Abkaree in the Island of Bombay)* shall be repealed, except as to any act or offence which shall have been done or committed, or to any money which shall have become due, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced before this Act shall come into operation.

Collection of Abkaree Revenue.

II. The collection of Revenue from the Abkaree in the Island of Bombay shall be conducted by the Collector of Bombay, or under a farming management subject to the control of the Collector.

Manufacture of spirituous liquors in Bombay.

III. No spirituous liquor whatever shall be manufactured in any part of the Island of Bombay except from the juice drawn from Cocoanut Brab or Date Trees; and in the manufacture of spirituous liquor from the juice of Cocoanut Brab or Date Trees, no Moura Dates Rice or other material whatever shall be used.

Penalty for prohibited manufacture.

IV. Any person, who shall manufacture spirituous liquor contrary to any of the provisions of the preceding Section shall, on conviction before a Police Magistrate or Justice of the Peace, be liable to a penalty not exceeding five hundred Rupees for each offence; and all stills and other implements and all materials whatever used in such illicit manufacture, shall be seized and confiscated.

License for making spirituous liquors.

V. No person shall draw liquor toddy or juice from any Cocoanut Brab or Date Tree, or make or distil any spirituous liquors from the juice of such trees, or use, keep or have in his possession any still or other utensil or apparatus for making or distilling any spirituous liquors in the Island of Bombay, except under the authority of a license from the Collector, to be granted in such form, and for such period, and subject to the payment of such fee or duty as the Governor of Bombay in Council may from time to time appoint.

VI. Any person who shall contravene any of the provisions of

Penalty for making spirituous liquors without license.

the preceding Section shall be liable to a penalty not exceeding five hundred Rupees for each offence, and all stills and other implements and other materials used in such illicit manufacture shall be seized and confiscated.

Grant of license.

VII. The Collector with the sanction of Government may prescribe such rules relative to the granting of licenses, to the number, size and description of the stills, to the situation where the stills may be kept or worked, and to the inspection and supervision of the distillery or other place where such stills may be kept or worked, as may from time to time be deemed expedient.

Form of license.

VIII. Every license, when granted, shall specify the number and description of Trees to be drawn, the place at which the liquor is to be distilled or manufactured, and where the still or other apparatus is to be kept or used, the length of time for which such license is to be in force, the amount of fee or duty to be levied in respect of each Tree included in the license, and any other conditions or terms which the Governor of Bombay in Council may from time to time deem it expedient to require.

Fee for license.

IX. The fee or duty aforesaid shall be paid at such period as the Collector may deem expedient, the same being specified in each respective license.

Recovery of arrears.

X. The Collector may recover any arrear of fee or duty due on account of any license granted under this Act, by distress or sale of the goods and chattels of the person from whom the same is due, or by any other process which now is or hereafter may be in force for the recovery of arrears of rent or revenue due from tenants or farmers of land within the Island of Bombay.

Penalty for drawing liquor without license.

XI. Any person who shall draw any liquor, toddy or juice from a Cocoanut, Brab or Date Tree in the Island of Bombay not included in such license as aforesaid, or contrary to the terms of the license granted in respect of any such tree, shall be liable to a penalty not exceeding one hundred Rupees for each offence.

XII. The Collector may cancel any license granted under this

Revocation of license.

Act if the fee or duty therein specified be not duly paid or in case of the violation of any other condition thereof.

Adjudication and recovery of fines and confiscations.

XIII. Every fine or penalty leviable under this Act shall be recovered by summary proceedings before any Justice of the Peace or Police Magistrate for the Town and Island of Bombay upon information exhibited by or by order of the Collector, and all confiscations under this Act shall be adjudicated such by Magistrate or Justice and sold under his warrant.

Appropriation of fines and confiscations.

XIV. All fines and confiscations levied under this Act shall belong to Government, but a moiety of any fine may at the discretion of the Collector be paid to the person, or divided among the persons if more than one, through whose means the offence may have been detected, in such proportions as the Collector may think fit.

Interpretation.

XV. The words "Island of Bombay" in this Act shall include all places within the local limits of the jurisdiction of Her Majesty's Supreme Court of Judicature at Bombay.

WORDS, MAGISTRATE AND JUSTICE OF THE PEACE INTERPRETED.

ACT No. XVIII. OF 1859.

[*Passed on the 25th July*, 1859.

Recites expediency of amending the law relating to offences made punishable on conviction before a Magistrate.

1. If any offence committed in the Mofussil is, by any Act heretofore passed, made punishable by a Magistrate, the same may be punishable by Supreme Court if committed by European British Subject.

2. Same, if such offence be committed within the Presidency Towns.

3. Act not to extend to any offence in which jurisdiction is expressly given to J. P. to convict.

4. The word "Magistrate" when declared to include J. P. not to give jurisdiction to punish unless offence was committed, within Presidency Town.

An Act to amend the law relating to offences declared to be punishable on conviction before a Magistrate.

Whereas it is expedient to amend the law relating to offences

Preamble.

declared to be punishable on conviction before a Magistrate; It is enacted as follows:—

British subjects how punishable for offences by law made punishable in the Mofussil upon conviction by a Magistrate.

I. If any offence which by any Act of the Governor General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender if not otherwise punishable shall be liable, upon conviction before one of the said Supreme Courts of Judicature, to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

When such offences are committed within the local limits of the jurisdiction of Her Majesty's Courts.

II. If any offence which by any Act of the Governor General in Council heretofore passed is declared to be punishable upon conviction by a Magistrate shall be committed by any person within the local limits of the jurisdiction of the Court of Judicature established by Royal Charter, the offender if not otherwise punishable shall be liable upon conviction before such Court to the punishment to which by such Act the offender is declared to be liable upon conviction before a Magistrate.

Jurisdiction expressly given to Justice of the Peace not to be affected.

III. Nothing in this Act shall extend to any case in which jurisdiction is expressly given to a Justice of the Peace to convict the offender.

Construction of Acts which declare the word "Magistrate" to include a Justice of the Peace.

IV. Whenever in any Act heretofore passed by the Governor General in Council the word "Magistrate" is declared to include a Justice of the Peace, such Justice of the Peace shall not by virtue of such Act be deemed to have jurisdiction to punish any offence unless the same shall be committed within the local limits of the jurisdiction of any of the Courts of judicature established by Royal Charter.

ARMS AND AMMUNITION.

ACT No. XIX. OF 1859.

[*Passed on the* 12*th August*, 1859.

Continues Act XXVIII. 1857, until the end of the year 1859.

An Act to continue in force until the end of the year 1859 Act XXVIII. of 1857 (relating to the importation, manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same.)

Preamble.

Whereas it is expedient that Act XXVIII. of 1857 (relating to the importation, manufacture, and sale of Arms and Ammunition, and for regulating the right to keep or use the same,) should continue in force until the end of the year 1859; It is enacted as follows:—

Act XXVIII. of 1857 continued.

I. Act XXVIII. of 1857 shall continue in force until the end of the year 1859.

MADRAS.—THE MOPLAS OF MALABAR.

ACT No. XX. OF 1859.

[*Passed on the* 31*st August*, 1859.

1. Repeals Acts XXIII. 1854, and V. 1856.

2. Empowers the G. in C. to bring the district of Malabar by proclamation under this Act.

3. Establishes a forfeiture of property against Moplas concerned in murder or attempts to murder either as principals, accessaries or assistants in any way, and forfeiture extended to Moplas killed in the commission of the offences specified.

4. Forfeiture to extend to immovable property of offender alienated within 12 months before commission of offence.

5. Empowers Court on sentencing Mopla to death, to direct the body to be burned or buried in the Jail, &c.

6. G. in C. to have same powers in regard to Moplas charged under this Act as in regard to persons charged with offences against the State.

7. Empowers the magistrate to detain Mopla in safe custody for the orders of government, if he si within provisions of last section.

8. Any Mopla who has been proceeded against under s. 6, and shall have gone into banishment with consent of G. in C. and shall return in breach of his undertaking shall be liable to imprisonment, &c. for seven years.

9. For offences specified in s. 3, the magistrate may with the consent of the G. in C. levy a fine on the umshum, &c. to which the offender belongs or wherein he resided, &c. and such fine shall be distributed in compensation to parties aggrieved by the outrage.

10. In such cases also the umshum may be called upon to deliver up the offenders, and in default shall be liable to such fine as G. in C may authorize.

11. Fines &c. may be levied by magistrate under summary process, and in the same manner as arrears of revenue, and no action shall be against magistrate.

12. Empowers the G. in C. to withdraw from operation of the Act any district declared subject to it.

13. Act to continue in force till end of year 1869.

An Act for the suppression of Outrages in the District of Malabar in the Presidency of Fort St. George.

Preamble.

Whereas in the District of Malabar in the Presidency of Fort St. George, murderous outrages have been frequently committed by persons of the class called Moplas, the offenders in such outrages intending therein to scrifice their own lives; and the general law of the country is not adequate to suppress such outrages: It is enacted as follows:—

Acts repealed.

I. Act XXIII. of 1854 *(for the suppression of outrages in the District of Malabar in the Presidency of Fort St. George)* and Act V. of 1856 *(to give effect to Act XXIII. of* 1854 *from the time of its promulgation in the District of Malabar, and to extend the application thereof in future)* are hereby repealed, except as to acts done and proceedings taken before the issue of a proclamation under the provisions of Section II. of this Act.

Governor in Council empowered to proclaim the whole or any part of Malabar to come under this Act.

II. It shall be lawful for the Governor in Council of Fort St. George, whenever he shall see fit, by a proclamation published in the Fort St. George Gazette, from time to time to declare the whole or any part or parts of the District of Malabar to be subject to the operation of all or any of the following provisions.

The property of Moplas convicted of outrages to be forfeited.

III. Any Mopla who murders or attempts to murder any person or who takes part in any outrage directed by Moplas against any persons wherein murder is committed or is attempted to be com-

mitted or is likely to be committed; and any person who shall procure or promote the commission of any such crime as aforesaid, or shall incite or encourage any other person or persons to commit the same; or who, after having committed, or having been accessary to any such crime as aforesaid, shall forcibly resist any person or persons having lawful authority to apprehend him; or who shall join or assist, or incite or encourage other persons to join or assist in such resistance, shall, on conviction thereof, be liable not only to the punishment provided by law for the offence of which he may be convicted, but also to the forfeiture of all his property, of whatever kind, to Government by the sentence of the Country by which he is tried; and whenever any person shall be killed in the act of committing any such offence as aforesaid, or being wounded and taken prisoner in the act of committing any such offence as aforesaid, shall afterwards die of his wounds, it shall be competent to the Court which would have had cognizance of the offence if the offender could have been brought to trial, to proceed, on the application of the Magistrate, to hold an inquest into the circumstances of the death of the offender; and on proof of his having been killed as aforesaid, or of his having died of wounds received as aforesaid, to adjudge that the whole of his property shall be forfeited to Government.

Also the property of persons killed in committing outrages.

IV. All immovable property of the offender which shall be alienated after the passing of this Act and before the commission of any offence specified in Section III. shall be forfeited in the same manner as if no such alienation had been made, unless the same shall have been made more than twelve months before the commission of the offence.

Immovable property of offender alienated within 12 months from passing of this Act and before commission of offences, to be forfeited.

V. If any Mopla shall be sentenced to death for any capital offence, punishable also with forfeiture of property under this Act, it shall be lawful for the Court, by which such offender is convicted, by its sentence, to direct the body of such offender to be burned or buried within the precincts of the Jail, as it shall see fit; and in like manner, if any Mopla shall be killed in the act of committing any such offence as aforesaid, or having committed any such offence as aforesaid shall be killed in

Bodies of offending Moplas sentenced to death, or killed, may be burned or buried within the precincts of the Jail.

resisting a lawful attempt to apprehend him, it shall be lawful for the Magistrate to cause the body of the person so killed to be burned or buried within the precincts of the Jail, as the said Magistrate shall see fit.

Powers of Governor in Council as to the confinement or trial of persons under this Act.

VI. The Governor in Council shall have, with respect to the confinement or trial of any person charged with or suspect of an intention to commit any offence punishable under this Act, the powers which are vested in him by any law regarding the confinement or trial of persons charged with or suspected of State offences; and the provisions of any such law shall be applicable to all cases in which the Governor in Council shall proceed under the authority of this Section.

Magistrate how to act in respect to persons against whom he thinks there are grounds of proceeding.

VII. The Magistrate of the District may cause any Mopla or other person, against whom there are in his judgment grounds of proceeding under the last Section to be apprehended, and after such enquiry as he may think necessary, may detain such Mopla or other person in safe custody, until he shall have received the orders of the Governor in Council, to whom in all such cases he shall report his proceedings without unnecessary delay.

Penalty for remaining or returning within forbiaden limits.

VIII. If, with the previous consent of the Governor in Council, any person, against whom the Governor in Council shall think fit to proceed under Section VI. shall undertake, in consideration of the suspension of such proceedings, to depart within a specified period from within the limits of the Continent of India or of any part thereof, and shall in breach of his said undertaking, and without the permission of the Governor in Council, remain or return within such limits, he shall be liable to be punished with imprisonment, with or without hard labor, for a period which may extend to seven years, or with fine, or both.

Levy of compensation or fine.

IX. When any such outrage, as is specified in Section III. of this Act, the same being punishable under this Act, shall after such proclamation as aforesaid, have been committed by any Mopla or Moplas, it shall be lawful for the Magistrate, with the sanction of the Governor in Council, to levy such sum of money as the Governor in Council shall author-

ize, from all the Moplas within the umshum or the several umshums to which the perpetrator or perpetrators, or any one of such perpetrators, of such outrages, shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage and also within the umshum in which the outrage shall have been committed; and the said Magistrate shall assess the proportions in which the said sum shall be payable upon the several heads of families of Moplas within such umshum or umshums, according to his judgment of their respective means; and the said Magistrate shall appropriate the sum so levied as follows, that is to say, in the first place, to the compensation of the parties aggrieved by such outrages, including therein compensation to the family of any person dying by any such outrage for the pecuniary loss occasioned or likely to be occasioned by such death; and, subject to such compensation, to the use of the Government.

Penalty for Mopla inhabitants of any umshum refusing to deliver up an offender.

X. Whenever any such outrage as is specified in Section III of this Act, the same being punishable under this Act, shall have been committed by any Mopla or Moplas, it shall be lawful for the Magistrate to call upon the Mopla inhabitants of the umshum or umshums to which the perpetrator or perpetrators, or any one of such perpetrators of such outrage shall be found to belong, or wherein any such perpetrator shall have been resident at the time of the commission of the outrage, or wherein any such perpetrator shall, after the perpetration of any such outrage, be found, to deliver up such perpetrator or perpetrators, and on the failure of such Mopla inhabitants to comply with such call so made upon them by the Magistrate, it shall be lawful for the Magistrate, with the sanction of the Governor in Council, to levy from such Mopla inhabitants such sum of money as the Governor in Council shall authorize as prescribed in the last preceding Section of this Act, and all sums so levied shall be appropriated in the manner prescribed in that Section.

Fines, &c. how to be levied.

XI. All fines and pecuniary liabilities incurred under this Act may be levied by a Magistrate under summary process, in the same manner as the public revenue may be realized by a Collector; and no action shall lie in any Civil Court against the Magistrate in respect of any fine im-

posed, or any assessment made under this Act, or in respect of the levy of any portion of such fine from the person or persons upon whom the same shall have been assessed.

Parts of District may be withdrawn from the operation of the Act, and again made subject to it.

XII. It shall be lawful for the Governor in Council, by such proclamation as aforesaid, from time to time, to withdraw from the operation of the provisions of this Act any part or parts of the said District which he may previously have declared to be subject thereto; and in like manner, as occasion shall require, to subject the same part or parts again to the operation of such provisions, or of any of them.

Duration of Act.

XIII. The provisions of this Act shall continue in force until the end of the year 1869.

THE GOVERNOR GENERAL.

ACT No. XXI. OF 1859.

[*Passed on the 3rd Sept.* 1859.

Recites expediency of G. G. visiting the N. W. Ps. and other parts of India unaccompanied by member of Council.

1. Empowers the G. G alone to exercise all the powers which might be exercised by the G. G. in C. as he may deem expedient.

2. Legalizes the exercise by the President in Council of all powers vested in the G. G in C.

3. Act to commence on departure of G G. from Calcutta.

An Act for providing for the exercise of certain powers by the Governor General during his absence from his Council.

Preamble.

Whereas the Governor General in Council has declared that it is expedient that the Governor General should visit the North-Western Provinces of the Presidency of Fort William in Bengal, and other parts of India, unaccompanied by any Member of his Council; It is enacted as follows:—

Powers to be exercised by the Governor General during his absence from Council.

I. During the absence of the Governor General from his Council, it shall be lawful for the Governor General alone to exercise all the powers which might be exercised by the Governor General in Council, in every case in which the said Governor General may think it expedient to exercise those powers.

II. All powers vested in the Governor General in Council by any Act of the Government of India, may be lawfully exercised by the President in Council.

Powers of the President in Council.

III. This Act shall commence from the day on which it shall be notified by an order published in the Official Gazette, that the Governor General has quitted Calcutta for the purpose of so proceeding as aforesaid; and shall not continue in force for a longer period than seven months.

Commencement and duration of Act.

BOMBAY.—CUSTOMS ON SALT.

ACT NO. XXII. OF 1859.

[*Passed on the 3rd Sept.* 1859.

1. Repeals Act I. 1852 s. 20, and schedule A. as respects the duty on the import of Salt.

2. Extends to the Salt duty under this Act, the provisions regarding the duty imposed by the said Schedule.

3. Adds to the powers given to the G. in C. by Act III. 1852, s. 1, the power of fixing the rate of duty on Spirits.

4. Act to be construed as part of previous specified Acts on same subject.

Schedule. Salt not covered by a pass 1 rupee per maund.

An Act to amend Act I. of 1852 (for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay.)

Preamble.

Whereas it is expedient to amend Act I. of 1852 (*for the consolidation and amendment of the Laws relating to the Customs under the Presidency of Bombay*); It is enacted as follows:—

Part of Act I. of 1852 repealed.

I. Section XX. of Act I. of 1852, and so much of Schedule A annexed to the said Act as prescribes the rate of Duty to be charged on Salt imported by Sea into any Port of the Presidency of Bombay, are repealed.

Duty on Salt imported by Sea.

II. All the provisions now in force of the above-mentioned Act which have reference to the Customs Duty now charged and leviable on Salt imported by Sea into any Port of the Presidency of Bombay, shall be

taken to have reference to the Duty prescribed in the Schedule annexed to this Act.

Duty on Spirits exported from any Port in India and imported into any Bombay Port.

III. Spirits exported from any Port within the British Territories in India, and imported at any Port subordinate to the Government of Bombay, shall be liable on importation to the same rate of duty as the Governor in Council of Bombay may from time to time impose under Act III. of 1852 or any future enactment on Spirits manufactured within the Presidency of Bombay. Provided always that, if the said Spirit be accompanied by a document signed by competent authority, certifying that a Duty whether of Customs or otherwise has been paid on the said Spirit within the British Territories in India, credit shall be allowed for the sum paid in settling the Customs at the Port of import, and if such sum equal or exceed the full amount leviable on import, then the Spirits on which such Duty has been paid shall be admitted to free Duty.

Construction of Act.

IV. This Act shall be construed as part of the said Act I. of 1852; and any Act subsequent to Act I. of 1852 which refers to that Act shall be construed to refer to that Act as hereby altered. And any Act which refers to Section XX. of Act I. of 1852 shall, as to all matters arising after the passing of this Act, have the same effect as if it referred to Section III. of this Act.

SCHEDULE.

Rate of Duty to be charged on Salt imported by Sea into any Port of the Presidency of Bombay from any Port or place not subject to the Government of India, or from Aden, or from any Port or place in the Straits of Malacca.

Salt not covered by a Pass	1 Rupee per Indian Md.

MADRAS AND BOMBAY.—LAND CUSTOMS.

ACT No. XXIII. OF 1859.

[*Passed on the 3rd September*, 1859.

Recites expediency of fixing duties of land customs.

1. Repeals Act VI. 1844, s. 6, and Act XXIX. 1857, s. 2, except as to Salt and Opium.

2, 3. Extends to imports and exports into foreign Settlement (2) by sea (3) by land the Schedules A. and B. of Act VII. 1859.

An Act to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively.

Preamble.

Whereas it is expedient to fix the duties of Land Customs on goods passing into or from the Presidency of Fort Saint George or the Presidency of Bombay from or into Foreign Settlements on the line of Coast at the same rates as the duties of Sea Customs specified in Schedules A and B annexed to Act VII. of 1859; It is enacted as follows:—

Laws repealed.

I. Section VI. of Act VI. of 1844 (*for revising the duties on imports and exports in the Presidency of Fort Saint George*) and Section II. of Act XXIX. of 1857 (*to make better provision for the collection of Land Customs on certain Foreign Frontiers of the Presidency of Bombay*) and hereby repealed, except so far as they respectively relate to Salt or Opium which shall remain subject to the same rates of duty or shall be prohibited without a pass, as the case may be, as if this Act had not been passed.

Exception.

Duties of Customs on goods passing by land into or out of certain Foreign Settlements situate within the limits of the Madras Presidency.

II. Duties of Customs shall be levied on goods passing by land into or out of Foreign Settlements situate on the line of Coast within the limits of the Presidency of Fort Saint George, at the rates prescribed in Schedules A and B of Act VII. of 1859 (*to alter the Duties of Customs on goods imported or exported by Sea*). And all the provisions of Act VI. of 1844 now in force relating to the rates of duty mentioned or referred to by Section VI. of that Act, are hereby declared to apply to the rates of duty mentioned in Schedules A

and B of the said Act VII. of 1859, as if such last mentioned rates had been specially mentioned in that Section.

III. Duties of Customs shall be levied on goods passing by land into or out of Foreign Settlements situate on the line of Coast within the limits of the Presidency of Bombay, at the rates prescribed in Schedules A and B of the said Act VII. of 1859, and all the provisions of Act XXIX. of 1857, now in force, relating to the rates of duty referred to by Section II. of that Act, are hereby declared to apply to the rates of duty mentioned in Schedules A and B of the said Act VII. of 1859, as if such last mentioned rates had been specially mentioned in that Section.

Duties of Customs on goods passing by land into or out of certain Foreign Settlements situate within the limits of the Bombay Presidency.

MADRAS.—POLICE.

ACT No. XXIV. OF 1859.

[*Passed on the 6th Sept.* 1859.

Recites the expediency of improving the country Police.

1. Explains the words Magistrate, Subordinate, Police, General Police, District, Property, Person, Cattle, &c.

2, 3. Repeals Regulations and Acts by reference to Schedule; (3) saving powers of appointment given to Magistrates by specified Regulation.

4. Vests superintendence of the Police in the G. in C.

5. Vests the administration of the Police in an Inspector General of Police.

6. Continues to new Police the existing powers of Police under old law.

7. Directs what powers the Inspector General shall have.

8. The entire establishment of Police to be one Police force, formally enrolled, &c.

9. Inspector-General to frame orders and regulations for the government of the force, subject to the approval of the G. in C.

10, 11. The appointment of all Police to rest with the Inspector G. under rules to be sanctioned by G. in C.; (11) and person appointed to have certificate.

12. Directs a deduction to be made from pay, to form, together with other specified means, a "Police Superannuation Fund."

13, 14, 15. Empowers the I. G. &c. to strengthen the police in any district in case of emergency; (14) especially in the neighbourhood of Railway, Canal or other public works and to charge the expense on the Railway, Canal or other Company; (15) the money so raised to be paid into a separate account called the "General Police Fund."

16, 17. Empowers Police Officer not below the rank of Inspector, to apply to Magistrate for appointment of special Police Officers, and directs who they may be and (17) what their powers and liabilities.

18. Person appointed a special, and refusing to serve to be liable to penalty.

19. Police Officer not to resign office without leave.

20. Persons not in, assuming function of Police, or feigning by specified means to be in Police, to be liable to penalty.

21. Police Officers to be considered as always on duty.

22, 23, 24. Specifies offences for which Police may arrest without warrant; persons (23) so arrested to be taken forthwith to station; and (24) be released on bail in specified cases.

25, 26. Empowers Officers at Station to bind over parties and witnesses and (26) prescribes the terms of the Bond.

27. Empowers Magistrate to remand the accused.

28. Empowers the Police without warrant to enter and inspect all drinking shops, gaming houses, &c. and specified suspected places.

29. Officer not below specified grade to be Inspector of weights, &c.

30. Police not to receive complaint of petty offences, and may refuse to receive charge of grave offences.

31. Police may apply for warrant in case of certain offences and charges.

32. Summons, warrants and other criminal process to be directed to Police only.

33, 34. Directs how warrants are to be carried into execution; and (34) how summons and other service process are to be served.

35. Empowers Magistrate to issue warrant without Summons, whenever positively necessary to enforce attendance.

36, 37, 38. Directs what Police shall do on execution of warrant; and (38) prohibits unnecessary restraint.

39, 40, 41. Authorizes Officer holding arrest warrant to break open doors &c.; and (40) to enter Zenanah after specified precautions and notice, and (41) directs that the arrested is to be forthwith brought before Magistrate.

42. Prohibits Police from extracting disclosures from prisoner, except of his free will.

43. Entitles Police to demand aid if necessary.

44, 45, 46. Provides punishment for offences by the Police; and (45) against the receipt of gratuities; and (46) extortion.

47. Provides punishment for resistance to and other offences against the Police.

48. Provides punishment for specified nuisances in streets, roads, &c. and slaughtering Cattle; and cruelty to animals, and blocking up ways, and keeping stalls on ways; and throwing dirt, &c. into street; and being found drunk, and indecently exposing the person; and neglecting to force in dangerous places.

49. Empowers Superior Police Officers to make regulations for assemblies and processions in the roads, &c.

50. Restrains power of Magistrate under this Act to its ordinary limits

and directs that all Police above Privates shall only be tried by European functionary.

51. Jurisdiction under other Law retained for prosecution of offences against this Act.

52. Fines may be recovered by distress and sale.

53, 54. Proceedings against the Police for acts done under this Act to be brought within three months, and notice to be previously given; and (54) Defendant may plead Magistrate's warrant, &c.

55. Act to be brought into operation by notification in Gazette.

Schedule of repealed Regulations and Acts.

An Act for the better regulation of the Police within the territories subject to the Presidency of Fort St. George.

Preamble.

Whereas it is expedient to make the Police force throughout the Madras Presidency a more efficient instrument at the disposal of the Magistrate for the prevention and detection of crime, and to re-organize the Police Force and improve the condition of the Village Police: it is enacted as follows:—

Interpretation.

I. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such construction, (that is to say).

"Magistrate."

The word "Magistrate" shall include all persons, within their respective jurisdictions, exercising all or any of the powers of a Magistrate.

"Subordinate."

The word "Subordinate," as applied to Police functionaries, shall mean District Superintendents and their Assistants.

"Police."

The word "Police" shall include General and Village Police, Cuttoobadies, Kavilgars, and all other persons, by whatever name known, who exercise any Police functions throughout the Madras Presidency.

"General Police District."

The expression "General Police District" shall embrace all Districts to which the operation of this Act shall be extended.

"Property."

The word "Property" shall include any chattel, money, or valuable security.

Number.

Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

"Person."

The word "person" shall include company or corporation.

"Month."

The word "month" shall mean calendar month.

"Cattle."

The word "cattle" shall, besides horned cattle, include Elephants, Camels, Horses, Asses, Mules, Sheep, Goats and Swine.

Laws repealed.

II. The several Regulations and Acts mentioned in the Schedule hereunto annexed are hereby repealed, and amended to the extent and in the manner therein set forth, within the limits of the General Police District, except so far as they repeal the whole or any part of any other Regulation or Act; and except as to any act or offence which shall have been done or committed, or to any fine or penalty which shall have been incurred or to any proceedings which shall have been commenced, before this Act shall come into operation: provided also that nothing in this Section shall be construed to affect any judical function or jurisdiction, original or appellate, which by any existing law may be exercised by any of the Officers mentioned in the enactments above repealed.

Jurisdiction of Officers appointed under Regulation XI. 1816.

III. Nothing contained in this Act shall affect the powers of appointment given to Magistrates by Section XL. of Regulation XI. 1816 of the Madras Code or the jurisdiction or functions of Officers appointed under such powers, save only that no Officer so appointed shall be competent to exercise any of the functions or duties of Executive Police Officers.

Superintendence vested in Governor in Council.

IV. The superintendence of the Police throughout the General Police District shall vest in, and be exercised by the Governor in Council, and, except as authorized by him under the provisions of this Act, no person, Officer, or Court shall be empowered to appoint, supersede, or control any Police functionary, any Regulation, Act or usage to the contrary notwithstanding.

Inspector-General of Police, &c.

V. The administration of the Police throughout the General Police District shall be vested in an Officer to be styled the Inspector-General of Police for the Presidency of Madras, and in such Subordinates as to the

Governor in Council shall seem fit, who shall from time to time be appointed by the Governor in Council, and may be removed by the same authority, and who shall receive such salary as the Governor General of India in Council shall allow.

Powers of Police, &c.

VI. All powers not inconsistent with the provisions of this Act which up to the passing of this Act belonged by law to the existing Police authorities shall be vested in the Police authorities appointed under this Act. Provided always that no Police functionary so appointed shall possess or exercise any Judicial or Revenue authority.

Inspector-General to be appointed a Magistrate

To act as such under the orders of Government.

District Superintendent may be appointed a Magistrate.

In what cases he may act in that capacity.

VII. The Inspector-General of Police shall be appointed a Justice of the Peace; he shall also have the full powers of a Magistrate throughout the General Police District, but shall exercise these powers subject to such orders as may from time to time be issued by the Governor in Council. The Governor in Council may vest any District Superintendent of Police with all or any of the powers of a Magistrate within such limits as he may deem proper; but such Superintendent shall exercise the powers with which he shall be so invested only so far as may be necessary for the preservation of the peace, the prevention of crime, and the detection, apprehension, and detention of offenders in order to their being brought before a Magistrate, and as far as may be necessary for the performance of the duties assigned to him by this Act.

Constitution of the Force.

VIII. The entire Police establishment of the Madras Presidency shall for the purposes of this Act be deemed to be one Police Force, and shall be formally enrolled, and shall consist of such number of Officers and men, and shall be otherwise constituted in such manner, as shall be from time to time ordered by the Governor in Council with the sanction of the Governor General of India in Council.

Inspector-General to control Force and make rules.

IX. The Inspector-General may from time to time, subject to the approval of the Governor in Council, frame such orders and regulations as he shall deem expedient, relative to the general government and distribution of the Force, the places of residence,

the classification, rank, distribution, and particular service of the Members thereof; their inspection; the description of arms, accoutrements, and other necessaries, to be furnished to them; to the collecting and communicating intelligence and information; and all such other orders and regulations relative to the said Police Force as the said Inspector-General shall, from time to time, deem expedient for preventing abuse or neglect, and for rendering such Force efficient in the discharge of all its duties.

Inspector-General to appoint and dismiss.

X. The appointment of all Police Officers shall under such rules as the Governor in Council shall from time to time sanction, rest with the Inspector-General of police and the Deputy Superintendents, who may under such rules as aforesaid at any time dismiss, suspend, or fine to any amount not exceeding one month's pay, any Police Officer whom they shall think remiss or negligent in the discharge of his duty, or otherwise unfit for the same.

Police Officers to receive certificates of Office.

XI. Every person so appointed shall receive on his enrolment a certificate (A) under the seal of the Inspector-General, by virtue of which he shall be vested with the powers, functions and privileges of a Police Officer. Such certificate shall cease to have effect whenever the person named in it is suspended or dismissed, or otherwise removed from employment in the Police Force, and shall thereupon be immediately surrendered to his superior Officer, or other person empowered to receive it.

Police Superannuation Fund.

XII. There shall be deducted from the pay of every Police Officer of a class not entitled to the benefit of the Uncovenanted Service Pension Rules, a sum after such rate as the Governor in Council shall direct, not being a greater rate than one anna in the Rupee; which sum so deducted and also the monies accruing from stoppage from the pay of Police Officers during absence from sickness or other cause, and fines imposed on Police Officers for misconduct, and from fines imposed by Magistrates and other upon drunken persons, or for assaults upon Police Officers, and all monies arising from the sale of worn or cast-off clothing, or other articles supplied for the use of the Police, or from any other miscellaneous sources which shall be permitted by the Governor in Council, shall from time to time be invested in such manner and in such

securities as the Governor in Council may direct, and the interest and dividends thereof, or so much of the same as shall not be required for the purposes herein mentioned, shall be likewise invested as aforesaid, and accumulate, so as to form a Fund to be called "The Police Superannuation Fund;" and shall be applied from time to time to the payment of superannuation or retiring allowances, or gratuities, under such rules as may be passed by the said Governor in Council: provided always that any Police Officer may be dismissed or removed without superannuation allowance; and that no Police Officer shall be entitled of right to any allowance from this Fund; or shall retain any right to a refund of any deduction made from his pay while he may have been a Police Officer.

Proviso.

XXIII. It shall be lawful for the Inspector-General of Police, or any District Superintendent, if they shall think fit, on application of any person showing the necessity thereof to depute any additional number of Police Officers to keep the peace at any place within the General Police District, at the charge of the person making the application, but subject to the orders of the said Inspector General or District Superintendent and for such time as they shall think fit; provided always that it shall be lawful for the person on whose application such deputation shall have been made, on giving one month's notice in writing to the Inspector-General or District Superintendent, to require that the Officers so appointed shall be discontinued: such person shall be relieved from the charge of such additional Force from the expiration of such notice.

Additional Police Officers employed at the cost of individuals.

XIV. Whenever any Railway, Canal, or other Public work shall be carried on, or be in operation in any part of the country, and it shall appear to the Inspector-General that the appointment of an additional Police Force in such neighbourhood is rendered necessary by the behaviour or reasonable apprehension of the behaviour of the persons employed upon such work, it shall be lawful for the Inspector-General, with the consent of the Governor in Council, to direct the employment of such additional Force, and to maintain the same so long as such necessity shall continue; and to make orders from time to time upon the Trea-

Appointment of additional Force in the neighbourhood of Railway and other works.

surer or other Officer having the control or custody of the Funds of any Company carrying on such works, for the payment of the extra Force so rendered necessary as aforesaid.

Payment of money for support of additional Police Force.

XV. All monies paid in respect of such additional Force as is mentioned in the two last preceding Sections, shall be paid into a fund to be called "The General Police Fund," and shall be applied to the maintenance of the Police Force under such orders as the Governor in Council may pass; and all sums of money payable under those Sections shall be recoverable by suit in any competent Court or by distress and sale of the goods of the defaulter under the warrant of a Magistrate.

Special Police Officers.

XVI. When it shall appear that any tumult, riot, or outrage has taken place, or may be reasonably apprehended in any place, and that the ordinary Officers appointed for preserving the peace are not sufficient for its preservation, and for the protection of the inhabitants, and the security of property in such place, it shall be lawful for any Police Officer not below the rank of Inspector to apply to the nearest Magistrate to appoint so many of the public or village servants, or residents of the neighbourhood, as such Police Officer may require to act as special Police Officers for such time and in such manner as he shall deem necessary; and it shall be the duty of such Magistrate at once to comply with such applications.

Powers of special Police Officers.

XVII. Every special Police Officer so appointed shall have the same powers, privileges, and protection, and be liable to all such duties and penalties, and be subordinate to the same authorities as the ordinary Officers of Police.

Refusal to serve.

XVIII. If any person being appointed a special Police Officer as aforesaid, shall without sufficient excuse neglect or refuse to serve as such, or to obey such lawful order or direction as may be given him for the performance of his duties, he shall be liable upon conviction before a Magistrate to a fine not exceeding fifty Rupees for such neglect, refusal, or disobedience.

Police Officer not to resign without leave or two months' notice.

XIX. No Police Officer shall be at liberty to resign his office, or withdraw himself from the duties thereof, unless expressly allowed to do so in writing by the District Superintendent; or

unless he shall have given to his superior Officer two months notice in writing of his intention to do so. Nor shall any such Police Officer engage in any employment or office whatever, other than his duties under this Act, unless expressly permitted to do so in writing under the seal of the Inspector-General.

Unlawful assumption of Police functions, personation of Police, &c.

XX. From and after the passing of this Act, every person, not being or having ceased to be, a duly enrolled Police Officer, who shall unlawfully assume any function or power belonging to the Police; and who shall not forthwith deliver up his certificate, and all the clothing, accoutrements, and appointments, and other necessaries which may have been supplied to him for the execution of his duty; or who shall have in his possession any distinctive article of the dress or appointment directed to be worn exclusively by the Police Force, without being able to account satisfactorily for his possession thereof; or who shall put on the dress of any Police Officer, or any dress designed to represent it, or to be taken for it; or who shall otherwise personate the character or act the part of any Police Officer for any purpose whatever; shall, in addition to any other punishment to which he may be liable for any offence committed under assumed character, be liable on conviction before a Magistrate to penalty not exceeding two hundred Rupees, or to imprisonment, with or without hard labor, for a period not exceeding six months or both.

Duties of Police Officers.

XXI. Every Police Officer shall, for all purposes in this Act contained, be considered to be always on duty and shall have the powers of a Police Officer in every part of the Genaral Police Distrct. It shall be his duty to use his best endeavours and ability to prevent all crimes, offences, and public nuisances; to preserve the peace to apprehend disorderly and suspicious characters; to detect and bring offenders to justice; to collect and communicate intelligence affecting the public peace; and promptly to obey and execute all orders and warrants lawfully issued to him.

Police Officer may arrest without warrant.

XXII. It shall be the duty of every Police Officer, and he is hereby authorized, to arrest without warrant.—

1. Any person who is charged on credible information,

Person charged with or suspected of grave crimes.

or whom he has reasonable ground to suspect of having been concerned in any grave or forcible crime or outrage.

Persons charged with aggravated assault recently committed.

2. Any person who is charged with committing an aggravated assault, in every case in which he shall have good reason to believe that such assault has been committed, although not in his view and that by reason of the recent commission of the offence a warrant could not have been issued.

Persons committing a breach of the peace.

3. Any person committing, or attempting to commit, any breach of the peace in his view, and who refuses to desist on being required thereto.

Persons found injuring public buildings, &c.

4. Any person found injuring the public buildings, roads, tanks, and water-channels, or committing any offence punishable by law. Provided always that, where such offence is of a slight and petty nature, it shall not be necessary for the Police Officer to arrest, if, from the circumstances of the case, there is no reason to apprehend that the party will abscond.

Proviso.

Vagrants and suspicious persons.

5. Any vagrant whom he shall find disturbing the public peace, or whom he shall have good cause to suspect to having committed or being about to commit a crime; all persons whose name and residence is unknown, or whom he may find by night lying or loitering in any high-way, road, or other place, and who, in either case, are unable to give a satisfactory account of themselves.

Persons assaulting Police Officer.

6. Any person who assaults, resists, or obstructs such Police Officer in the execution of his duty, or aids or excites others so to do.

Persons escaping from legal custody.

7. All persons who, having been in legal custody, shall have escaped therefrom.

Persons charged with an offence, refusing to give name.

8. All persons who are charged with having done any injury or admage to the person or property of another, and who refuse to give their name and residence, or who give one which there is ground to believe to be false, may be detained solely for the purpose of ascertaining such name and residence, with a view to future proceedings.

XXIII. Every person taken into custody by any Police Officer, without warrant, except persons detained for the mere purpose of ascertaining their name and residence, shall forthwith be delivered into the custody of the Police Officer in charge of a Station House, in order that such person may be secured until he can be brought before a magistrate to be dealt with according to law, or may give bail for his appearance before a Magistrate, if the Officer in charge shall deem it prudent to take bail as hereinafter mentioned; provided always that, where bail is not taken, the prisoner shall be brought before a Magistrate within twenty-four hours, unless circumstances render delay unavoidable.

Persons arrested without warrant to be taken to Station house until brought before Magistrate or bailed.

Proviso.

XXIV. Whenever any person shall be brought in custody, without a warrant, to any Station House, at a time when he cannot at once be sent before a Magistrate, and shall be charged with any bailable offence, or with any unbailable offence of which it shall appear to the Officer in charge of the Station House that the prisoner is falsely accused, it shall be lawful for such Police Officer to release the accused on bail or on his own recognizance to appear before the Magistrate when required.

Releasing on bail.

XXV. It shall be lawful for every Police Officer in charge of a Station, or other superior Officer of Police, to bind by recognizance any person to appear as prosecutor or as a witness before the Magistrate by whom any grave charge is being or is about to be investigated; and if any such prosecutor or witness shall refuse to execute such recognizance, it shall be competent to such Officer to forward the person in custody to the Magistrate's Court.

Superior Officer of Police may take recognizance for appearance of prosecutor or witness.

XXVI. Every recognizance so taken shall be without fee or reward and shall be conditioned for the appearance of the person thereby bound before a Magistrate at such time and place as may be required, and the time and place of appearance, and the sum thereby acknowledged, not exceeding one thousand Rupees, shall be specified in the said recognizance, or in the condition thereof; and the Officer

Condition of recognizance.

taking the recognizance shall return the same forthwith to the Magistrate present at the time and place when and where the party is bound to appear.

Remands.

XXVII. If from the absence of witnesses, or from any other reasonable cause, it shall become necessary or advisable to defer the examination of any case, or the further examination of any witnesses, it shall be lawful for any Magistrate from time to time by his warrant to remand the accused to the custody of any Police Officer, for such time as he shall deem necessary and reasonable, not exceeding eight clear days, to be secured in any Station House or Jail or to be otherwise detained in custody as to the said Magistrate shall appear expedient; provided always that any such Magistrate may order such accused party to be brought before him at any time or place before the expiration of the time for which such accused party shall have been remanded; or may discharge such accused party on his recognizances, with or without sureties, conditioned for his appearance at the time and place appointed for such further examination.

Proviso.

Entering drinking shops &c. without a warrant.

XXVIII. It shall be lawful for any Police Officer without a warrant to enter and inspect all drinking shops, gaming houses, and other resorts of loose and disorderly characters; all premises of persons suspected of receiving stolen property; any locality, vessel, boat, or conveyance in any part of which places he shall have just cause to believe that crime has been, or is about to be committed; or which he reasonably suspects to contain stolen property; and then and there to take all necessary measures for the effectual prevention and detection of crime; and to take charge of all property reasonably suspected to have been stolen, and of all articles or things which may serve as evidence of the crime supposed to have been committed.

Inspection of weights and measures.

XXIX. Every Police Officer, not below the grade of Inspector shall be an Inspector of weights and measures, and may enter any shop or premises for the purpose of inspecting the weights and measures and instruments for weighing kept or used therein, and may seize any weight, measure, or instrument for weighing, which he may have reason to believe is false.

XXX. No Police Officer shall receive any complaint of any petty offence; or take into his custody any person brought to him accused of such petty offences, trespass, assault, quarrelling, or the like; and it shall be lawful for any Police Officer to refuse to receive any charge of an offence of a grave character, if he shall, on enquiry made of the complainant alone, see good grounds for doubting its truth: provided always that, if the charge be not of such a nature as under ordinary circumstances would justify the Police Officer in refusing to receive it, the particular reasons for refusing it are to be recorded by such Officer at the time.

Police Officer not to receive complaints of petty offences.

Proviso.

XXXI. It shall be lawful for any Police Officer to lay any information before the Magistrate, and to apply for summons, warrant, search warrant, or such other legal process as may by law issue, and may be expedient under the circumstances, against any person committing an offence against any law or enactment, or against any regulation for the protection of the Revenue, or against any person committing or failing to remove any public nuisance or unwarrantable obstructions, keeping disorderly houses, harbouring thieves, disturbing the peace, obstructing the due course of justice, and the like, and to prosecute such offenders up to final judgment; provided always that any rewards, forfeitures, and penalties, or shares of rewards, forfeitures, or penalties, which by law are payable to informers, and all costs of prosecution which may by any enactment be awarded to the prosecutor, shall be paid into the "General Police Fund."

Police Officers may lay informations, &c.

Proviso.

XXXII. From and after the passing of this Act, all summonses, warrants, search warrants, warrants of commitment for trial, or orders for the escort and conveyance of prisoners, and all other processes issued by any Officer in any criminal proceeding, shall be directed and delivered to Officers of the Police alone and such processes shall be served and executed by them and none others.

All warrants, &c., to be executed by members of the Police Force.

XXXIII. Where any such warrant, order, or process shall be directed or delivered to any of the said Officers, unless it be necessary for the due

Warrant to be endorsed.

execution thereof that such warrant be executed without delay, the person receiving it shall deliver the same to any Officer authorized for that purpose, who shall take charge of it, and appoint by endorsement thereon one or more Police Officers to execute the same or endorse it to any other Officer for a like purpose; and every Police Officer whose name shall be so endorsed thereon shall have the same power privileges, and protection as if the same had originally been directed to him by name; provided also that every such process shall be executed with all secrecy and despatch; and shall have full force in any part of the Madras Presidency except within the limits of the Supreme Court, without further formality or local endorsement; and that all Police authorities shall every where be assisting in the execution of such process.

Proviso.

XXXIV. Every summons, notice, or other Criminal process may be served on the party named personally, or be left with some adult male member of his family, or a copy thereof may be affixed on some conspicuous part of his usual place of abode; and any party failing or neglecting to obey such summons or notice duly served, shall be liable, at the discretion of the Magistrate or Court that issued the process, to a penalty not exceeding ten Rupees unless such person shall be able to prove that he was prevented by unavoidable accident or other satisfactory cause from obeying such summons, notice, or the like.

Service of summonses, &c.

XXXV. A Magistrate may, without issuing any summons, forthwith issue his warrant to bring before him any person charged with an offence cognizable by him, or whose attendance it may for any reason be necessary to enforce, whenever it shall appear probable that such person will not attend unless compelled so to do.

Warrant without summons.

XXXVI. A Police Officer executing a warrant of arrest shall notify the substance of the wrrrant, and if required so to do shall show the warrant.

Notification of substance of warrant.

XXXVII. In making an arrest, the Police Officer executing the warrant shall actually touch or confine the body of the person to be arrested, unless there be a submission to the custody by word or action.

Warrant how to be executed.

XXXVIII. After arrest the prisoner shall not be subjected

No unnecessary restraint.

to any more restraint than such as may be necessary to prevent his escape.

XXXIX. Any Police Officer authorized by a warrant to arrest a person accused of any offence for which a warrant may issue on complaint, may break open any outer or inner door or window of a dwelling house, whether that of the person accused or of any other person, in order to execute such warrant, if, after notification of his authority and purpose, and demand of admittance duly made, he cannot otherwise obtain admittance.

Breaking of outer door or window.

XL. If information be received that a person accused of any offence for which a warrant may issue, has concealed himself in a Zenanah or female apartment in the actual occupancy of women, the Officer employed to execute the warrant shall take such precautions as may be necessary to prevent the escape of the accused; and if such person shall not deliver himself up, the Police Officer authorized to execute the warrant, may break open the Zenanah and execute the process intrusted to him, giving notice at the same time to any woman in the Zenanah that she is at liberty to withdraw.

Breaking open a Zenanah or female apartment.

XLI. After arrest made, the Police Officer executing the warrant shall without unnecessary delay bring the person arrested before Magistrate or other authority described in the warrant.

Party arrested to be brought immediately to the authority mentioned in the warrant.

XLII. No Police Officer shall offer to the person arrested any inducement, by threat or promise or otherwise, to make any disclosure. But no Police Officer shall prevent the person arrested, by any caution or otherwise, from making any disclosure which he may be disposed to make of his own free will.

No threat, or promise, to compel disclosure by party arrested.

XLIII. If any Police Officer shall at any time find himself unable to effect an arrest, it shall be lawful for him to require any and every person present to assist and aid him in making the arrest; and any person who shall refuse or neglect to comply with such requisition, shall be liable, on conviction before a Magistrate, to a fine not exceeding fifty Rupees or to imprisonment for aperiod not exceeding three months, or both.

Police Officer may require assistance.

Penalty.

Penalties for neglect of duty, &c.

XLIV. Every Police Officer who shall be guilty of any violation of duty or wilful breach of any lawful orders and regulations not punishable under Section X of this Act; or who shall cease to perform the duties of his office without leave, or without having given two months' notice as provided by this enactment, or engage without authority in any employment other than his Police duty; or who shall maliciously and without probable cause prefer any false, vexatious, or frivolous charge or information against any individual; or who shall knowingly and wilfully and with evil intent exceed his powers; or shall be guilty of any wilful and culpable neglect of duty in not bringing any person, who shall be in his custody without a warrant, before a Magistrate as hereinbefore provided; or who shall offer any unwarrantable personal violence to any person in his custody, shall be liable on conviction before a Magistrate to a penalty not exceeding three months' pay, or to imprisonment with or without hard labor not exceeding three months, or both.

Penalty for receiving unauthorized fees, &c.

XLV. Any Police Officer who shall on any pretext, or under any circumstance, directly or indirectly collect or receive any fee, gratuity, diet-money, allowance, or recompense, other than he may be duly authorized by the Inspector-General or other Officer acting under his order to collect or receive, shall on conviction before a Magistrate be liable to a penalty not exceeding six months' pay, or to imprisonment with or without hard labor not exceeding six months, or both.

Penalty for extortion, &c.

XLVI. Any Police Officer who shall directly or indirectly extort, exact, seek, or obtain any bribe or unauthorized reward or consideration, by any illegal threat, or pretence, or for doing or omitting or delaying to do any act which it may be his duty to do or to cause to be done, or for withholding or delaying any information which he is bound to afford or to communicate; or who shall attempt to commit any of the offences above said, or shall be guilty of cowardice, shall be liable upon conviction before a Magistrate to a fine not exceeding twelve months' pay, or to imprisonment with or without hard labor not exceeding twelve months, or both. Provided always that nothing in the three last preceding Sections shall be

deemed to preclude the Magistrate from committing for trial any cases of this nature too serious for his cognizance.

Penalty for obstructing a Police Officer in the execution of his duty.

XLVII. If any person shall assault or resist any Police Officer in the execution of his duty; or shall aid or incite any other person so to do; or shall maliciously and without probable cause prefer any false or frivolous charge against any Police Officer; such person shall, on conviction of such offence before any Magistrate, be liable to a fine not exceeding fifty Rupees, or to imprisonment with or without hard labor not exceeding three months, or both.

Certain duties of Police Officers. Obstructions and nuisances in roads.

XLVIII. Any person who in any street, road, thoroughfare, or passage, within the limits of any Town, commits any of the following offences, to the obstruction, inconvenience, annoyance, risk, or damage of the residents and passengers, shall, on conviction before a Magistrate, be liable to a fine not exceeding fifty Rupees, or to imprisonment not exceeding eight days; and it shall be lawful for any Police Officer to take into custody without warrant any person who within view commits any such offence.

Slaughtering cattle, furious riding, &c.

First. Any person who shall slaughter any cattle or clean any carcase in the streets; any person riding or driving any cattle, recklessly and furiously, or training or breaking any horse or other cattle on or near any public road, to the danger of the passers:

Cruelty to animals.

Second. Any person who wantonly or cruelly abuses or tortures any animal:

Obstructing passengers.

Third. Any person who shall keep any cattle, or conveyance of any kind standing in any road or street longer than is required for loading or unloading, or for taking up or setting down passengers; or who shall leave any conveyance in such a manner as to cause inconvenience or danger to the public:

Exposing goods for sale on road

Fourth. Any person exposing goods for sale on the road so as to obstruct passengers:

Throwing dirt into street.

Fifth. Any person who throws or lays down any dirt, filth, rubbish, or any stones or building materials; or who constructs any pile, cowshed, stable, or the like within the bounds of any thoroughfare; or who causes

any offensive matter to run from any house, factory, dungheap, or the like into the street:

Being found drunk in any thoroughfare.

Sixth. Any person found in any thoroughfare drunk and riotous, or incapable of taking care of himself:

Indecent exposure of person.

Seventh. Any person who wilfully and indecently exposes his person, or any offensive deformity or disease, or commits nuisance, by easing himself in or by the side of, or near any public street or thoroughfare; or by bathing or washing in any tank or reservoir, not being a place set apart for that purpose:

Neglect to protect dangerous places.

Eighth. Any person who neglects to fence in or duly to protect any well, tank, or other dangerous place or structure.

Regulattion of public processions, &c. and of carriages and persons at places of public resort.

XLIX. The Superintendent and Superior Officers of Police may, as occasion requires, direct the conduct of all assemblies and processions in the public roads, streets, or thoroughfares, prescribe the routes by which, and the times at which such processions may pass; keep order in the public roads, streets, thoroughfares, ghauts, and landing places, and all other places of public resort, and prevent obstructions on the occasion of such assemblies and processions and in the neighbourhood of places of worship during the time of public worship, and in any case when the roads, streets, or thoroughfares, ghauts or landing places, may be thronged, or may be liable to be obstructed: they may also regulate the use of music in the streets, on the occasion of native festivals and ceremonies; and may direct all crowds of twelve or more persons to disperse, when they have reason to apprehend any breach of the peace; and every person opposing, or not obeying the orders so issued as aforesaid, or violating the conditions of such license, shall be liable to a fine not exceeding one hundred Rupees. Provided always that nothing in this Section contained shall be deemed to interfere with the general control of the Magistrate over such matters.

Licenses for use of music in streets.

Jurisdiction.

L. In all cases of convictions under this Act, the Magistrate trying the case shall be restrained within the limits of his ordinary jurisdiction as to the

amount of fine or imprisonment he may inflict; provided always that such charges against Police Officers above the rank of Private shall only be adjudicated on by European functionaries, and that Village Watchers alone shall be liable to conviction dy Heads of Villages.

Proviso.

LI. Nothing contained in this Act shall be construed to prevent any person from being prosecuted for any offence made punishable on conviction by this Act; or to prevent any person from being liable under any other Law, Regulation, or Act to any other or higher penalty or punishment than is provided for such offence by this Act. Provided always that no person shall be punished twice for the same offence.

Power to prosecute not affected.

Proviso.

LII. All fines and penalties imposed, and all sums of money recoverable under the authority of this Act, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate, in manner provided by Act II. of 1839.

Levy of fines.

LIII. All actions and prosecutions against any person, which may be lawfully brought for anything done or intended to be done under the provisions of this Act, or under the general police powers as hereby given, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action and of the cause thereof, shall be given to the defendant, or to the Superintendent or other Superior Officer of the District in which the act was committed, one month at least before the commencement of the action; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought by or on behalf of the defendant; and though a decree shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action; provided always that no action shall in any case lie where such Officers shall have been prosecuted criminally for the same act.

Limitation of action.

Proviso.

Plea that act was done under a warrant.

LIV. When any action, prosecution, or proceeding shall be brought against any Police Officer for any act done by him in such capacity, it shall be lawful for him to plead that such act was done by him under the authority of a warrant issued by a Magistrate; and such plea shall be proved by the production of the warrant directing the act and purporting to be signed by a Magistrate. And the defendant shall thereupon be entitled to a decree in his favor, notwithstanding any defect of jurisdiction in such Magistrate. And no proof of the signature of such Official shall be necessary, unless the Court shall see reason to doubt its being genuine; provided always that any remedy which the party may have against the authority issuing such warrant shall remain entire.

Poviso.

Scope of Act.

LV. This Act shall take effect in any and every such District as the Governor in Council shall appoint by notification published in the Official Gazette.

SCHEDULE.

Laws repealed.

LVI. The following words in Section XXXVI. of Regulation IX. 1816; "The Officer entrusted with the service of the summons in such cases, as well as in all other cases wherein bail may not be required, shall demand only an acknowledgment of the receipt of it and in the absence of the party, the summons may be served on the principal person in his house or family, if such person be willing to receive the same, and to return an acknowledgment for the party;" and Section XLII.

Regulation XI. 1816, Sections III, IV, V, VI, VII, XI, XV, XVI, XVII, XVIII, XXI, XXII, XXIII, XXIV, XXV, XXVI, Clause 2, XXIX, XXXV, XXXVIII, XXXIX, XL, XLI, XLVIII, and LV.

Regulation IV. 1821, Section III.

So much of Clause 2 Section II. of Regulation IV. 1821 as declares that all Subordinate Officers of Police of every description shall be subject to the authority of the Tuhseeldars of their respective Districts.

So much of Section VII. of Regulation VI. 1831, as affects

Village Watchers or other persons holding village offices in the Police Department.

Act VII. of 1843, Sections XXXIX. and XL.

Laws to be amended.

So much of Clause 4 Section XIII. of Regulation XI. 1816, as directs the Head of the Village to apprehend any person supposed to have committed a murder.

So much of Clause 1 Section XXVII. of Regulation XI. 1816 as directs the Head of the Village to make every exertion to apprehend any person accused or suspected of having committed the offences referred to in the said Clause.

FORM A.

A. B. has been appointed a member of the Police Force under Act XXIV. of 1859, and is vested with the powers, functions and privileges of a Police Officer.

BENGAL.—NATIVE PASSENGER VESSELS.

ACT No. XXV. OF 1859.

[*Passed on the* 14*th December*, 1859.

1, 2, 3, 4 Limits the number of Passengers in native Craft between specified ports to the proportion of one passenger to every 4 tons, without license; and (2) limits the number in licensed Craft to not exceeding one to every ton; and imposes certain conditions as to room to entitle Craft to obtain license; and (3) fixes fine for Tindals exceeding the number in unlicensed vessels; and (4) for Tindal exceeding the number in licensed vessels.

5. Excepts from the restriction established in s. 1, craft proceeding from ports gazetted under the exception.

6. Vests in Collectors of Sea Customs the power of granting licenses, and prescribes the particulars of the license.

7, 8, 9. Establishes a penalty on Tindals going to sea without being provisioned according to law; and (8), also for not supplying the passengers with prescribed allowance of water; and (9), provisions.

10. Tindal to sign and deliver to Customs officer a list of his passengers, which list officer shall countersign if correct, and port clearance to be withheld till this is done.

11. Establishes penalty for bringing into port any craft loaded or provisioned contrary to the regulations of this Act.

12. Authorises the Principal Customs Officer of port to enter and inspect passenger vessels.

13. Establishes penalty for landing passenger at wrong port without his consent.

14. Saves to passengers civil rights of action.

15. 16. Makes all offences under Act punishable in a summary manner and (16) makes offender liable to jurisdiction whenever found.

17. Authorizes Magistrate to compensate person aggrieved out of fine.

18. Interpretation clause.

19. Act to commence from expiration of Act I. 1857.

An Act to prevent the over-crowding of Vessels carrying Native Passengers in the Bay of Bengal.

Preamble.

Whereas it is necessary to prevent the over-crowding of Vessels carrying Native Passengers in the Bay of Bengal; It is enacted as follows:—

Number of Native Passengers to be carried in unlicensed Vessels.

I. No Vessels shall carry Native Passengers from any port or place under the Presidency of Fort St. George or from Chittagong or from any Port in the Province of Orissa, to any Port or place on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca or in Ceylon; or from any Port or place on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca, to any Port or place under the Presidency of Fort St. George, or to Chittagong, or to any Port in the Province of Orissa, in a proportion greater than one Passenger to every four tons of the burden of such Vessel, without a license.

Number of Native Passengers to be carried in licensed Vessels.

II. No Vessels shall be licensed to carry Passengers on any such voyage as aforesaid, in a proportion greater than one Passenger to every ton of burden, nor unless the Vessel has space on a deck or platform under hatches reserved for the accommodation of the Passengers in the proportion of six superficial feet for every Passenger, with not less than five feet clear between the upper deck and the lower deck or platform: except a Vessel proceeding in ballast from any part of the Coast of the Gulf of Manaar or Palks' Strait to any Port or place in Ceylon which may be licensed to carry a number of Passengers not exceeding the proportion of two and a half to every ton of her burden, provided that the whole of the space usually allotted for cargo and not occupied by ballast, be kept for the accommodation of the Passengers, and for storing the provisions and water for their use, and that the space left clear for the ac-

First Exception.

commodation of the Passengers on the deck or decks of the Vessel be not less than four superficial feet for each Passenger: and except a vessel carrying Native Passengers between Chittagong and any Port or place on the Coast of Arracan which may be licensed to carry a number of Passengers not exceeding the proportion of two and a half to every ton of her burden, subject to such regulations as the Government of Bengal may prescribe.

Second Exception.

III. The Master or Tindal of any Vessel which shall carry Native Passengers on any such voyage as aforesaid, without a license, in a proportion exceeding that laid down in Section I, shall be liable to a fine not exceeding twenty Rupees for each Passenger in excess of such proportion.

Penalty on Master of unlicensed Vessel.

IV. The Master or Tindal of any licensed Vessel which shall carry on any such voyage a greater number of Passengers than is specified in the license, or in which the accommodation therein required shall not be afforded, shall be liable to a fine not exceeding twenty Rupees for each Passenger in excess of such number, or for each Passenger who is not provided with accommodation agreeably to the license.

Penalty on Master of licensed Vessel.

V. Passengers in a greater number than one Passenger to every four tons of the burden of any Vessel, shall not be shipped from the territories under the Government of Fort St. George or from the Province of Orrissa, for Ceylon or the Eastern Coast of the Bay of Bengal, or the Straits of Malacca; or from the Eastern Coast of the Bay of Bengal or the Straits of Malacca, for the said Territories or Province or for Chittagong, except from such Ports as shall be from time to time appointed by the local Government by an Order published in the Government Gazette, and in the Straits Settlement in such manner as the Governor shall notify; and the Master or Tindal of any Vessel who shall take on board Passengers for such voyage from any other Port or place in a greater proportion to the burden of the Vessel than is above-mentioned, shall be liable to a fine not exceeding twenty Rupees for each Passenger embarked.

Government to appoint Ports for shipment of Passengers when the number of Passengers to be carried is greater than one to every four tons of burden.

Grant of licenses to Vessels.

VI. It shall be at the discretion of the Collectors of Sea Customs for the Ports appointed for shipping Native Passengers, or such other persons as the local Government may from time to time appoint for the purpose, to grant licenses to Vessels under this Act. Provided that such licenses shall not be granted, except for Vessels within the exceptions in Section II. till the Vessels have been surveyed according to such directions as shall be given from time to time by the local Government. The license shall describe the Vessel, her tonnage, and rig; the number of her boats, anchors, and cables; and what instruments for the purpose of navigation she is supplied with; also the name of the owner and of the Master or Tindal and the number and composition of the crew; and shall specify the number of Passengers she may carry and the space to be assigned for their accommodation.

Certain licensed Passenger Vessels to carry provisions according to appointed scale.

VII. The Master or Tindal of any Vessel licensed to carry Passengers from any Port in the territories under the Government of Fort St. George or from Chittagong or from any Port in the Province of Orissa, to any Port or place on the Eastern Coast of the Bay of Bengal or the Straits of Malacca; or from any Port on the Eastern Coast of the Bay of Bengal or the Straits of Malacca to any Port or place in the territories under the Government of Fort St. George, or to Chittagong, or to any Port in the Province of Orissa; which shall proceed on such voyage not being furnished with provisions and water according to such scale as shall be laid down from time to time by an order of the local Government published in the Government Gazette, and in the Straits Settlement in such manner as the Governor shall notify, shall be liable to a fine not exceeding twenty Rupees for each Passenger in excess of the number fully supplied with provisions and water according to such scale.

Penalty for omitting to supply Passengers with prescribed allowance of food and water.

VIII. The Master or Tindal of any Vessel licensed to carry Passengers as aforesaid, who shall wilfully and without stisfactory excuse omit to supply to every Passenger the prescribed allowance of food and water, shall be liable for such omission to a fine which may extend to twenty Rupees for every Passenger who has suffered privation thereby.

IX. The Master or Tindal of any Vessel licensed to carry Passengers from any Port under the Government of Fort St. George to Ceylon, or between Chittagong and any Port or place on the Coast of Arracan who shall proceed on any such voyage without having laid in a supply of water and provisions for the Passengers according to a scale to be fixed by the Collector of Sea Customs for such Port, or such other person as the local Government may from time to time appoint for the purpose, which shall be hung up at the Custom House of the Port, shall be liable to a fine not exceeding one hundered Rupees.

Supply of provisions on board Passenger Ships plying to and from Ceylon.

X. The Master or Tindal of any Vessel licensed to carry Passengers as hereinbefore provided, shall sign and deliver in duplicate to the principal Officer of Customs at the place of embarkation, or such other person as the local Government may from time to time appoint for the purpose, a list, according to the form annexed to this Act, of all Passengers to be conveyed in such Vessel; and such Officer, after satisfying himself of the correctness of the same, and that the number of Passengers authorized is not exceeded, shall countersign and return one such list to the Master or Tindal, to be produced to the proper Officer at the Port to which the Vessel is bound; and should any additional Passengers engage to proceed by such Vessel after such list has been so countersigned, the Master or Tindal may insert their names in the original list obtaining the signature of the controlling Officer as before. The Officer in charge of the Customs may withhold the Port Clearance till this rule is complied with.

List of Passengers to be signed by Master.

Additional Passengers.

XI. If any Vessel, bringing Native Passengers into any Port or place whatsoever on the Eastern Coast of the Bay of Bengal or in the Straits of Malacca, from any Foreign European Settlement situate on the line of coast within the limits of the Presidency of Fort Saint George, shall have on board a greater number of Passengers than in the proportion prescribed in Section I. of this Act, the Master or Tindal of such Vessel shall be liable to a penalty of twenty Rupees for each Passenger in excess of such proportion, unless the Vessel shall

Penalty for bringing Native Passengers into any Port on the Eastern Coast of the Bay of Bengal from any Foreign European Settlement in excess of authorized proportion.

have been licensed under Section VI. of this Act and shall have complied with the stipulations as regards space, water, and provisions laid down in Section II.

Penalty for impeding entry or inspection.

XII. The Principal Officer in charge of the Customs at the Port of embarkation or of destination, or any person authorized by him, shall be at liberty at all times to enter and inspect any Passenger-Vessel, and the fittings, provisions, and stores therein; and whoever impedes such entry or inspection, or refuses to allow of the same, shall be liable to a fine not exceeding fifty Rupees.

Penalty on landing Passenger at a place other than that at which he has contracted to land.

XIII. If any Native Passenger in any Ship shall be landed at any Port or place other than the Port or place at which he may have contracted to land, unless with his previous consent, or unless such landing is made necessary by perils of the sea or other unavoidable accident, the Master shall for each offence be liable to a penalty not exceeding two hundred Rupees.

Passenger's right of action preserved.

XIV. Nothing in this Act contained shall take away or abridge any right of action which may accrue to any Native Passenger, or to any other person in respect of the breach or non-performance of any contract made with the Master or Owner of the Ship or his Agent.

Adjudication of offences and recovery of penalties.

XV. All offences against this Act shall be punishable in a summary manner by a Magistrate. If the person directed to pay any penalty is the Master or Tindal of a Ship, and the same is not paid at the time and in the manner prescribed by the order of payment, the Magistrate may, in addition to the means prescribed by law for enforcing payment, direct by warrant the amount remaining unpaid to be levied by distress and sale of the said Ship, her tackle, furniture, and apparel.

Sum ordered to be paid leviable by distress on Ship.

Jurisdiction.

XVI. For the purpose of the adjudication of penalties under this Act, any offence shall be deemed to have been committed within the limits of the jurisdiction of the Magistrate of the place where the offender is found.

Application of penalties.

XVII. Any Magistrate imposing any Penalties under this Act may, if he thinks fit, direct the whole or any part thereof to be applied in compensating any

person for any wrong or damage which he may have sustained by the act or default in respect of which such penalty is imposed, or in or towards payment of the expenses of the proceedings.

Interpretation. "Magistrate."

XVIII. The word "Magistrate" in this Act shall include a Magistrate of Police appointed under Act XIII. of 1856, a Joint Magistrate, and any person lawfully exercising the power of a Magistrate, and a Justice of the Peace.

"Local Government."

The word "Local Government" shall mean the person or persons for the time being immediately administering the executive Government of that portion of the said territories where the Port or place in question is situate.

Commencement of Act.

XIX. This Act shall commence and take effect from the expiration of Act I. of 1857.

SCHEDULE.

Form.

1	2	3	4	5	6	7
Name of Vessel.	Name of Master.	Tons per register.	Port of embarkation.	Numbers and names of Passengers.	Port at which Passengers have contracted to be landed.	Date of departure.

(Signed) ————,

Master.

(Countersigned) ————,

Principal Officer of Customs.

Note.—In the case of Vessels carrying Passengers to Ceylon, or between Chittagong and any Port or place on the Coast of Arracan, it will be sufficient to insert the number, and not the names, of Passengers in Column 5.

ARMS AND AMMUNITION.

ACT No. XXVI. OF 1859.

[*Passed on the 14th December*, 1859.

Continues Act XXVIII. of 1857 to the 30th June 1860.

An Act to continue in force for a further period Act XXVIII. of 1857.

Preamble.

Whereas it is expedient that Act XXVIII. of 1857 *(relating to the importation, manufacture, and sale of Arms and Ammunition and for regulating the right to keep or use the same)* should continue in force for a further period; It is enacted as follows:—

Act XXVIII. of 1857 continued till 30th June 1860.

I. Act XXVIII. of 1857 shall continue in force until the 30th day of June 1860.

STATE OFFENCES.

ACT No. XXVII. OF 1859.

[*Passed on the 14th December*, 1859.

Continues Acts XIV. 1857; XVI. 1857; and XVII. 1857 to the end of 1860.

An Act to continue in force for a further period Acts XIV. of 1857, XVI. of 1857, and XVII. of 1857.

Preamble.

Whereas it is expedient that Act XIV. of 1857 *(to make further provision for the trial and punishment of certain offences relating to the Army, and of offences against the State)* Act XVI. of 1857 *(to make temporary provision for the trial and punishment of heinous offences in certain Districts)*, and Act XVII. of 1857 *(to provide temporarily for the apprehension and trial of Native Officers and Soldiers for Mutiny and Desertion)*, should continue in force until the end of the year 1860; It is enacted as follows:—

Acts XIV. XVI. and XVII of 1857 continued till the end of the year 1860.

I. Acts XIV. of 1857, XVI. of 1857, and XVII. of 1857 shall continue in force until the end of the year 1860.

FOREIGNERS.—PASSPORT ACT.

ACT, No. XXVIII. OF 1859.

Passed on the 26th December, 1859.

Recites expediency of reviving and continuing Act XXXIII. 1857.

I. Continues the said Act for 2 years to be reckoned from date of its expiration.

An Act to revive and continue in force for a further period Act XXXIII. of 1857 (to make further provision relating to Foreigners).

Preamble.

Whereas by Act XXXIII. of 1857 ("An Act to make further provision relating to Foreigners" which received the assent of the Governor General on the 5th December 1857), it was enacted that the said Act should continue in force for two years; and whereas it is expedient to revive and continue the said Act for a further period; It is enacted as follows:—

Act XXXIII. of 1857 to continue in force for two years from 5th December, 1859.

I. The said Act XXXIII. of 1857 shall continue in force for the period of two years from the 5th day of December 1859, and shall be deemed and taken to have had effect as if this Act had actually passed and received the assent of the Governor General before the expiration of the said Act XXXIII. of 1857.

CALCUTTA:—PRINTED BY D'ROZARIO AND CO.

ADVERTISEMENT.

GOVT OF INDIA LIBRARY

THE ACTS

OF THE

GOVERNOR-GENERAL IN COUNCIL,

AND OF THE

LEGISLATIVE COUNCIL OF INDIA,

FROM 1834 TO THE END OF 1860.

IN 4 VOLUMES, ...Price Rs. 70

OR SEPARATELY.

VOLUME 1—1834 to 1848	.....Price Rs.	20
„ 2—1849 to 1855	..... „	20
„ 3—1856 to 1859	..... „	20
„ 4, for 1860	..... „	10

BY W. THEOBALD, Esq.

BARRISTER.

Published by Messrs. Thacker, Spink & Co., & P. S. D'Rozario & Co.

Shortly will be published,

A COMMENTARY ON THE PENAL CODE,

BY W. THEOBALD, Esq.

BARRISTER.

THE ACTS

OF THE

LEGISLATIVE COUNCIL OF INDIA,

OF THE YEAR

1860,

(IN CONTINUATION OF THE ACTS FOR THE PREVIOUS YEARS.)

WITH

AN ANALYTICAL ABSTRACT PREFIXED TO EACH ACT, AND A COPIOUS INDEX.

(TO BE ANNUALLY CONTINUED.)

BY

WILLIAM THEOBALD, ESQ.

BARRISTER AT LAW, AND PROTHONOTARY OF THE SUPREME COURT, CALCUTTA.

CALCUTTA:

THACKER, SPINK & CO., P. S. D'ROZARIO & CO. AND THE OTHER BOOK-SELLERS.

1861.

CONTENTS.

TITLES OF ACTS OF 1860.

			Page.
No.	1	An Act to empower the Governor-General in Council to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal, ...	1
	2	An Act to amend the law relating to the Carriage of Passengers by Sea, ...	2
	3	An Act to empower Sessions Judges to pass sentence in certain cases without reference to the Sudder Court, ...	4
	4	An Act to amend Act VIII. of 1859 (for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter), ..	6
	5	An Act to amend Act III. of 1857 (relating to trespasses by Cattle), ...	8
	6	An Act to amend Act XIX. of 1847 (Articles of War for the Native Army), ...	9
	7	An Act to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability,	11
	8	An Act for regulating the establishment and management of Electric Telegraphs in India, ...	16
	9	An Act to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers, ...	22
	10	An Act to amend Act VII. of 1859 (to alter the Duties of Customs on goods imported or exported by Sea), ...	25
	11	An Act to enforce the fulfilment of Indigo Contracts, and to provide for the appointment of a Commission of Enquiry, ...	28
	12	An Act relating to the Emigration of Native Laborers to the British Colony of Saint Vincent,	35
	13	An Act to repeal certain Laws relating to the jurisdiction of the Zillah Court of Furruckabad, ..	36
	14	An Act to provide for the execution of process within the premises occupied by His Majesty the King of Oude, ...	*ib.*
	15	An Act to amend and extend Act XXII. of 1836 (relating to the levy of a Toll on Boats, Rafts, and Floats passing through the Circular and Eastern Cannals), ...	38

Page.

16 An Act to amend Act XIV. of 1856, 38

17 An Act to repeal Act V. of 1858 (for the punishment of certain Offenders who have escaped from Jail, and of persons who shall knowingly harbour such Offenders), and to make certain provisions in lieu thereof, ... 39

18 An Act to continue in force for a futher period of three months Act XXI. of 1859, for providing for the exercise of certain powers by the Governor-General during his absence from his Council, 43

19 An Act to amend Act XXII. of 1855 (for the regulation of Ports and Port-dues), and Act VII. of 1858 (for the levy of Port-dues at Ports within the Presidency of Fort St. George), .. ib.

20 An Act for settling Promissory Notes of the Government of India producing an annual income of one lac of Rupees and a Mansion-House and hereditaments called Mazagon Castle, in the Island of Bombay, late the property of Sir Jamsetjee Jejeebhoy, Baronet, deceased, so as to accompany and support the title and dignity of a Baronet lately conferred on him and the heirs male of his body by Her present Majesty Queen Victoria, and for other purposes connected therewith, ... 45

21 An Act for the Registration of Literary, Scientific, and Charitable Societies, ... 56

22 An Act to remove certain tracts on the Eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts, ... 63

23 An Act to amend Act XXI. of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal), ... 66

24 An Act for the solemnization of Marriages in India by ordained Ministers of the Church of Scotland, ... 70

25 An Act for the levy of Port-dues in the Port of Bassein, ... 71

26 An Act to amend Act VIII. of 1855 (relating to the office and duties of Administrator General), 72

27 An Act for facilitating the collection of debts on successions, and for the securities of parties paying debts to the representatives of deceased persons, ... 74

28 An Act for the establishment and maintenance of Boundary Marks, and for facilitating the settlement of Boundary Disputes in the Presidency of Fort Saint George, ... 81

Page.

29 An Act to continue in force Act XXVIII. of 1857, 91
30 An Act to remove the Pergunnah Koonch and Calpee in Zillah Jaloun from the operation of the General Regulation, ... *ib.*
31 An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases, ... 93
32 An Act for imposing Duties on Profits arising from Property, Professions, Trades, and Offices, 109
33 An Act relating to Emigration to the British Colony of Natal, ... 207
34 An Act to indemnify Officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances,. 208
35 An Act relating to the Transportation of Convicts, 209
36 An Act to consolidate and amend the law relating to Stamp Duties, ... 211
37 An Act to repeal Act XVI. of 1859, ... 245
38 An Act to explain Act XXX. of 1858 (to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic), ... *ib.*
39 An Act to amend Act XXXII. of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades and Offices), .. 246
40 An Act to amend Act XXXVI. of 1860, .. 250
41 An Act relating to the Emigration of Native Laborers to the British Colony of Saint Kitts, .. 252
42 An Act for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter, ... 253
43 An Act to amend Act VIII. of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter), ... 259
44 An Act for providing for the exercise of certain powers by the Governor-General during his absence from his Council, ... 261
45. The Indian Penal Code, ... 262
46 An Act to authorize and regulate the Emigration of Native laborers to the French Colonies, ... 436
47 An Act for giving to the Universities of Calcutta, Madras and Bombay, the power of conferring Degrees in addition to those mentioned in Acts II., XXII. and XXVII. of 1857, .. 456
48 An Act to amend Act XII. of 1856 (for regulating the Police of the Towns of Calcutta, Madras and Bombay, and the several Stations of the out-

Page.

tlement of Prince of Wales' Island, Singapore, and Malacca), ... 457

49 An Act relating to Vessels carrying Emigrant Passengers to the British Colonies, ... 472

50 An Act to amend the Law relating to Vacations in the Civil Courts within the Presidency of Fort William in Bengal, ... 474

51 An Act further to amend Act XXXVI. of 1860, ... *ib.*

52 An Act to amend Act XVIII. of 1854 (relating to Railways in India), ... 475

53 An Act to amend Act X. of 1859, ... 476

TABLE OF CONTENTS.*

THE INDIAN PENAL CODE.

CHAPTER I.

PREAMBLE.—Page 262 and 263.

	Section.	Page.
Title and extent of operation of the Code	1	262
Punishment of offences committed within the Indian Territories	2	ib.
Punishment of offences committed beyond, but which, by law, may be tried within the Indian Territories	3	263
Punishment of offences committed by a servant of the Queen within a Foreign allied State	4	ib.
Certain laws not to be affected by this Act	5	ib.

CHAPTER II.

GENERAL EXPLANATIONS.—Page 263 to 273.

Definitions in the Code to be understood subject to exceptions	6	264
Expression once explained is used in same sense throughout the Code	7	ib.
Gender	8	265
Number	9	ib.
"Man"—"Woman"	10	ib.
"Person"	11	ib.
"Public"	12	ib.
"Queen"	13	ib.
"Servants of the Queen"	14	ib.
"British India"	15	ib.
"Government of India"	16	ib.
"Government"	17	266
"Presidency"	18	ib.
"Judge"	19	ib.
"Court of Justice"	20	ib.
"Public servant"	21	ib.
"Movable property"	22	268
"Wrongful Gain"—"Wrongful Loss"	23	ib.
"Dishonesty"	24	ib.
"Fraudulently"	25	ib.
"Reason to believe"	26	ib.
Property in possession of wife, clerk, or servant ..	27	269
"Counterfeit"	28	ib.
"Document"	29	ib.

* As the Penal Code is a separate and comprehensive body of Law, I make an exception of it and add a separate Table of Contents.

	Section.	Page.
"Valuable security"	30	270
"Will"	31	ib.
Words referring to acts include omissions	32	ib.
"Act"—"Omissions"	33	ib.
Each of several persons liable for an act done by all as if done by him alone	34	ib.
As to criminality of an act by reason of its being done with criminal knowledge or intention	35	ib.
Effect caused partly by act and partly by omission	36	ib.
Co-operation by doing one of several acts constituting an offence	37	271
Several persons engaged in criminal act may be guilty of different offences	38	ib.
"Voluntarily"	39	272
"Offence"	40	ib
"Special Law"	41	ib.
"Local Law"	42	ib.
"Illegal"—"Legally bound to do"	43	ib.
"Injury"	44	ib.
"Life"	45	ib.
"Death"	46	ib.
"Animal"	47	ib.
"Vessel"	48	ib.
"Year"	49	273
"Section"	50	ib.
"Oath"	51	ib.
"Good faith"	52	ib.

CHAPTER III.

Of Punishments.—Page 273 to 279

Punishments	53	274
Commutation of sentence of death	54	ib.
Commutation of sentence of transportation for life	55	ib.
Europeans and Americans to be sentenced to penal servitude instead of transportation	56	275
Fractions of terms of punishment	57	ib.
Offenders sentenced to transportation how to be dealt with until transportation	58	ib.
In what cases transportation may be awarded instead of imprisonment	59	ib.
Sentence may be in certain cases wholly or partly rigorous or simple	60	ib.
Sentence of forfeiture of property	61	ib.
Forfeiture of property in respect of offenders punishable with death, transportation, or imprisonment	62	276
Amount of fine	63	ib.
Sentence of imprisonment in default of fine	64	ib.
Limit of term of imprisonment for default in payment of fine, when the offence is punishable with imprisonment as well as fine	65	ib.
Description of imprisonment for default in payment of fine	66	277
Term of imprisonment for default in payment of fine, when the offence is punishable with fine only	67	ib.

	Section.	Page.
Imprisonment for default in payment of fine to terminate on payment of fine	68	277
Imprisonment for default on payment of fine to terminate on payment of proportional part of fine	69	ib.
Fine may be levied within six years or at any time during the term of imprisonment; and death not to extinguish liability for fine	70	ib.
Limit of punishment of offence which is made up of several offences	71	278
Punishment of a person found guilty of one of several offences, the judgment stating it is doubtful of which ..	72	ib.
Solitary confinement	73	ib.
Limit of solitary confinement	74	279
Punishment of a person convicted after a previous conviction for offence punishable with three years' imprisonment ..	75	ib.

CHAPTER IV.

General Exceptions.—Page 279 to 291.

Act done by a person bound, or by mistake of fact believing himself bound by law	76	280
Act of Judge when acting judicially	77	ib.
Act done pursuant to judgment or order of Court of Justice	78	ib.
Act done by a person justified or by mistake of fact believing himself justified by law	79	281
Accident in doing a lawful act	80	ib.
Act likely to cause harm, but done without a criminal intent, and to prevent other harm	81	ib.
Act of a child under seven years of age	82	282
Act of child above seven and under twelve, and of insufficient maturity of understanding	83	ib.
Act of person of unsound mind	84	ib.
Act of person incapable of judgment by reason of intoxication caused against his will	85	ib.
Offence requiring a particular intent or knowledge committed by one who is intoxicated	86	ib.
Act not intended and not known to be likely to cause death or grievous harm, done by consent	87	ib.
Act not intended to cause death, done by consent in good faith for the benefit of a person	88	283
Act done in good faith for benefit of a child or person of unsound mind, by, or by consent of guardian ..	89	ib.
Consent known to be given under fear or misconception, or by a child or person of unsound mind	90	284
Acts which are offences independently of harm to the person consenting, not excused by consent under Sections 87, 88, and 89	91	ib.
Act done in good faith for the benefit of a person without consent	92	ib.
Communication made in good faith	93	285
Act to which a person is compelled by threats	94	286
Act causing slight harm	95	ib.

Right of Private Defence.—Page 286 to 291

Nothing done in private defence is an offence	96	287

	Section.	Page
Right of private defence of the body and of property ..	97	287
Right of private defence against the act of a person of unsound mind, &c.	98	288
Act against which there is no right of private defence; and extent to which the right may be exercised	99	*ib.*
When the right of private defence extends to causing of death	100	289
When the right of private defence extends to causing harm other than death	101	*ib.*
Commencement and continuation of the right of private defence	102	290
When the right of private defence of property extends to causing death	103	*ib.*
When the right of private defence of property extends to other harm than causing death	104	*ib.*
Commencement and continuance of right of private defence of property	105	*ib.*
Right of private defence against a deadly assault when there is risk of harm to an innocent person ..	106	291

CHAPTER V.

Of Abetment.—Page 291 to 300.

Abetment of a thing defined	107	292
Abettor, who is	108	293
Punishment of abetment if the act abetted is committed in consequence, and no express provision is made for its punishment	109	294
Punishment of abetment if the person abetted does the act with a different intention from that of the abettor ..	110	295
Liability of abettor when one act is abetted and a different act is done	111	*ib.*
Abettor when liable to cumulative punishment for act abetted and for act done	112	296
Liability of abettor for an effect caused by the act abetted different from that intended by the abettor ..	113	*ib.*
Abettor present when offence is committed	114	*ib.*
Abetment of an offence punishable with death or transportation for life, if the offence be not committed in consequence of the abetment; also if an act which causes harm be done in consequence of the abetment ..	115	297
Abetment of an offence punishable with imprisonment, if the offence be not committed; and also if the abettor or abetted be a public servant whose duty it is to prevent the offence	116	*ib.*
Abetting the commission of an offence by the public, or by more than ten persons	117	298
Concealing a design to commit an offence punishable with death or transportation for life, if the offence be committed; and also if it be not committed	118	*ib.*
A public servant concealing a design to commit an offence which it is his duty to prevent; if the offence be committed; if it be punishable with death; and also if it be not committed	119	299

	Section.	Page.
Concealing a design to commit an offence punishable with imprisonment; if the offence be committed; and also if it be not committed	120	299

CHAPTER VI.

OF OFFENCES AGAINST THE STATE.—Page 300 to 303.

Waging or attempting to wage war, or abetting the waging of war against the Queen	121	300
Collecting arms, &c., with the intention of waging war against the Queen	122	301
Concealing with intent to facilitate a design to wage war ..	123	ib.
Assaulting Governor-General, Governor, &c., with intent to compel or restrain the exercise of any lawful power ...	124	ib.
Waging war against any Asiatic power in alliance with the Queen	125	302
Committing depredation on the territories of any power at peace with the Queen	126	ib.
Receiving property taken by war or depredation mentioned in Sections 125 and 126	127	ib.
Public servant voluntarily allowing prisoner of State or war in his custody to escape	128	ib.
Public servant negligently suffering prisoner of State or war in his custody to escape	129	ib.
Aiding escape of, rescuing, or harbouring such prisoner ...	130	303

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY AND NAVY.—Page 303 to 305

Abetting mutiny or attempting to seduce a soldier or sailor from his duty	131	304
Abetment of mutiny, if mutiny is committed in consequence thereof	132	ib.
Abetment of an assault by a soldier or sailor on his superior officer, when in the execution of his office ..	133	ib.
Abetment of such assault, if the assault is committed ..	134	ib.
Abetment of the desertion of a soldier or sailor ..	135	ib.
Harbouring a deserter	136	ib.
Deserter concealed on board merchant vessel through negligence of master	137	305
Abetment of act of insubordination by a soldier or sailor ..	138	ib.
Person subject to Articles of War not punishable under this Code	139	ib.
Wearing the dress of a soldier	140	ib.

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY.—Page 305 to 311.

Unlawful assembly	141	307
Being a member of an unlawful assembly	142	ib.
Punishment for being a member of an unlawful assembly	143	ib.
Joining an unlawful assembly armed with any deadly weapon	144	308
Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse	145	ib.

	Section.	Page.
Force used by one member in prosecution of common object ..	146	308
Punishment for rioting	147	ib.
Rioting, armed with a deadly weapon	148	ib.
Every member of an unlawful assembly to be deemed guilty of any offence committed in prosecution of common object	149	ib.
Hiring or conniving at hiring of persons to join an unlawful assembly	150	ib.
Knowingly joining or continuing in any assembly of five or more persons, after it has been commanded to disperse ..	151	309
Assaulting or obstructing public servant when suppressing riot, &c.	152	ib.
Wantonly giving provocation with intent to cause riot; and punishment if rioting be committed; and if it be not committed	153	ib.
Owner or occupier of land on which an unlawful assembly is held	154	310
Liability of person for whose benefit a riot is committed ..	155	ib.
Liability of agent of owner or occupier for whose benefit a riot is committed	156	ib.
Harbouring persons hired for an unlawful assembly ...	157	311
Being hired to take part in an unlawful assembly or riot; and going armed	158	ib.
Affray	159	ib.
Punishment for committing an affray	160	ib.

CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.—Page 311 to 317.

Public servants taking a gratification other than legal remuneration in respect of an official act. The terms, "Expecting to be a public servant," "Gratification," "Legal Remuneration," "Motive or Reward," explained	161	312
Taking a gratification, in order, by corrupt or illegal means, to influence a public servant	162	313
Taking a gratification for the exercise of personal influence with a public servant	163	314
Punishment for abetment by public servant of the offences above defined	164	ib.
Public servant obtaining any valuable thing without consideration, from person concerned in any proceeding or business transacted by such public servant	165	315
Public servant disobeying a direction of the law, with intent to cause injury to any person	166	ib.
Public servant framing an incorrect document with intent to cause injury	167	316
Public servant unlawfully engaging in trade	168	ib.
Public servant unlawfully buying or bidding for property..	169	ib.
Personating a public servant	170	ib.
Wearing garb or carrying token used by public servant with fraudulent intent	171	ib.

CHAPTER X.

Of Contempts of the lawful Authority of Public Servants.

Page 317 to 324.

	Section.	Page.
Absconding to avoid service of summons, or other proceeding from a public servant	172	318
Preventing service of summons or other proceeding, or preventing publication thereof	173	*ib.*
Non-attendance in obedience to an order from a public servant	174	319
Omission to produce a document to a public servant by a person legally bound to produce such document ..	175	*ib.*
Omission to give notice or information to a public servant by a person legally bound to give notice or information ..	176	320
Furnishing false information to a public servant ..	177	*ib.*
Refusing oath when duly required to take oath by a public servant	178	321
Refusing to answer a public servant authorized to question	179	*ib.*
Refusing to sign statement	180	*ib.*
False statement on oath to public servant or person authorized to administer an oath	181	*ib.*
False information, with intent to cause a public servant to use his lawful power to the injury of another person ..	182	322
Resistance to the taking of property by the lawful authority of a public servant	183	*ib.*
Obstructing sale of property offered for sale by authority .. of a public servant	184	*ib.*
Illegal purchase or bid for property offered for sale by authority of a public servant	185	323
Obstructing public servant in discharge of his public functions	186	*ib.*
Omission to assist public servant when bound by law to give assistance	187	*ib.*
Disobedience to an order duly promulgated by a public servant	188	*ib.*
Threat of injury to a public servant	189	324
Threat of injury to induce any person to refrain from applying for protection to a public servant	190	*ib.*

CHAPTER XI.

Of False Evidence and Offences against Public Justice.

Page 324 to 342.

Giving false evidence	191	328
Fabricating false evidence	192	329
Punishment for false evidence	193	*ib.*
Giving or fabricating false evidence with intent to procure conviction of a capital offence; if innocent person be thereby convicted	194	330
Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment	195	*ib.*

	Section.	Page.
Using evidence known to be false	196	331
Issuing or signing a false certificate	197	ib.
Using as a true certificate one known to be false in a material point	198	ib.
False statement made in any declaration which is by law receivable as evidence	199	ib.
Using as true any such declaration known to be false ..	200	ib.
Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender; and different punishments according to the nature of the principal offence	201	ib.
Intentional omission to give information of an offence, by a person bound to inform	202	332
Giving false information respecting an offence committed ...	203	ib.
Destruction of document to prevent its production as evidence	204	ib.
False personation for the purpose of any act or proceeding in a suit	205	333
Fraudulent removal or concealment of property to prevent its seizure as a forfeiture or in execution of a decree ..	206	ib.
Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree	207	ib.
Fraudulently suffering a decree for a sum not due ..	208	334
Dishonestly making false claim in a Court of Justice ..	209	ib.
Fraudulently obtaining a decree for a sum not due ..	210	ib.
False charge of offence made with intent to injure ..	211	ib.
Harbouring an offender; and different punishments, according to the nature of the principal offence	212	335
Taking gift, &c., to screen an offender: and different punishments according to nature of the principal offence	213	ib.
Offering gift or restoration of property in consideration of screening offender; and different punishments according to nature of principal offence	214	336
Taking gift to help to recover stolen property, &c. ..	215	337
Harbouring an offender who has escaped from custody or whose apprehension has been ordered; and different punishment according to nature of principal offence ...	216	ib.
Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture	217	338
Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture	218	ib.
Public servant in a judicial proceeding corruptly making an order, report, &c., which he knows to be contrary to law	219	ib.
Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law	220	339
Intentional omission to apprehend on the part of a public servant bound by law to apprehend	221	ib.
Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice	222	ib.
Escape from confinement negligently suffered by a public servant	223	340
Resistance or obstruction by a person to his lawful apprehension	224	ib.

	Section.	Page.
Resistance or obstruction to the lawful apprehension of another person; and different punishments according to nature of the principal offence	225	341
Unlawful return from transportation	226	ib.
Violation of condition of remission of punishment ..	227	342
Intentional insult or interruption to a public servant sitting in any stage of a Judicial proceeding	228	ib.
Personation of a Juror or Assessor	229	ib.

CHAPTER XII.

Of Offences relating to Coin and Government Stamps.—

Page 342 to 351

Coin and Queen's Coin	230	344
Counterfeiting coin	231	ib.
Counterfeiting the Queen's coin	232	345
Making or selling instrument for counterfeiting coin ...	233	ib.
Making or selling instrument for counterfeiting Queen's coin	234	ib.
Possession of instrument or material for the purpose of using the same for counterfeiting coin	235	ib.
Abetting in India the counterfeiting out of India of coin	236	ib.
Import or export of counterfeit coin	237	ib.
Import or export of counterfeits of the Queen's coin ...	238	346
Delivery to another of coin possessed with the knowledge that it is counterfeit	239	ib.
Delivery of Queen's coin possessed with the knowledge that it is counterfeit	240	ib.
Delivery to another of coin as genuine which, when first possessed, the deliverer did not know to be counterfeit ..	241	ib.
Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof ..	242	347
Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof ...	243	ib.
Person employed in a mint causing coin to be of a different weight or composition from that fixed by law ...	244	ib.
Unlawfully taking from a mint any coining instrument ..	245	ib.
Fraudulently or dishonestly diminishing the weight or altering the composition of any coin	246	ib.
Fraudulently or dishonestly diminishing the weight or altering the composition of the Queen's coin ...	247	348
Altering appearance of any coin, with intent that it shall pass as a coin of a different description	248	ib.
Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description	249	ib.
Delivery to another of coin possessed with the knowledge that it is altered	250	ib.
Delivery of Queen's coin possessed with the knowledge that it is altered	251	ib.
Possession of altered coin by a person who knew it to be altered when he became possessed thereof	252	349
Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof	253	ib.

	Section.	Page.
Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered ..	254	348
Counterfeiting a Government Stamp	255	ib.
Having possession of an instrument or material for the purpose of counterfeiting a Government Stamp . ..	256	350
Making or selling instrument for the purpose of counterfeiting a Government Stamp	257	ib.
Sale of counterfeit Government Stamp	258	ib.
Having possession of a counterfeit Government Stamp ..	259	ib.
Using as genuine a Government Stamp known to be counterfeit	260	ib.
Effacing any writing from a substance bearing a Government Stamp, or removing from a document a stamp used for it, with intent to cause loss to Government . ..	261	351
Using a Government Stamp known to have been before used	262	ib.
Erasure of mark denoting that Stamp has been used ...	263	ib.

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHING AND MEASURING.—Page 351 to 352

Fraudulent use of false instrument for weighing ..	264	352
Fraudulent use of false weight or measure	265	ib.
Being in possession of false weight or measures	266	ib.
Making or selling false weights or measures	267	ib.

CHAPTER XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.—Page 352 to 359.

Public nuisance	268	354
Negligent act likely to spread infection of any disease dangerous to life	269	ib.
Malignant act likely to spread infection of any disease dangerous to life	270	ib.
Disobedience to a quarantine rule	271	ib.
Adulteration of food or drink which is intended for sale ...	272	355
Sale of noxious food or drink	273	ib.
Adulteration of drugs	274	ib.
Sale of adulterated drugs	275	ib.
Sale of any drug as a different drug or preparation ...	276	356
Fouling the water of a public spring or reservoir ..	277	ib.
Making atmosphere noxious to health	278	ib.
Rash driving or riding on a public way	279	ib.
Rash navigation of a vessel	280	ib.
Exhibition of a false light, mark, or buoy	281	ib.
Conveying person by water for hire in a vessel overloaded or unsafe	282	ib.
Danger or obstruction in a public way or navigation ..	283	357
Negligent conduct with respect to any poisonous substance ..	284	ib.
Negligent conduct with respect to any fire or combustible matter..	285	ib.
Negligent conduct with respect to any explosive substance ..	286	ib.
Negligent conduct with respect to any machinery in the possession or under the charge of the offender	287	358

	Section.	Page.
Negligence with respect to pulling down or repairing buildings	288	358
Negligence with respect to any animal . .	289	ib.
Punishment for public nuisance	290	ib.
Continuance of nuisance after injunction to discontinue ..	291	ib.
Sale, &c., of obscene books	292	ib.
Having in possession obscene book for sale or exhibition ..	293	359
Obscene songs	294	ib.

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION—Page 359 to 360

Injuring or defiling a place of worship, with intent to insult the religion of any class	295	359
Disturbing a religious assembly	296	ib.
Trespassing on burial places, &c.	297	ib.
Uttering words, &c. with deliberate intent to wound the religious feelings of any person	298	ib.

CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.—Page 360 to 386

of Offences affecting Life.

Culpable homicide	299	361
Murder	300	362
Culpable homicide by causing the death of a person other than the person whose death was intended	301	365
Punishment for murder	302	ib.
Punishment for murder by a life convict	303	ib.
Punishment for culpable homicide not amounting to murder	304	ib.
Abetment of suicide of child or insane person ..	305	366
Abetment of suicide	306	ib.
Attempt at murder	307	ib.
Attempt to commit culpabe homicide	308	ib.
Attempt to commit suicide	309	367
Thug	310	ib.
Punishment	311	ib.

Of the causing of Miscarriage, of injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.

Causing miscarriage	312	368
Causing miscarriage without woman's consent ..	313	ib.
Death caused by an act done with intent to cause miscarriage; and if act done without woman's consent ..	314	ib.
Act done with intent to prevent a child being born alive, or to cause it to die after birth	315	ib.
Causing death of a quick unborn child by an act amounting to culpable homicide	316	ib.
Exposure and abandonment of a child under twelve years, by parent or person having care of it ...	317	369
Concealment of birth by secret disposal of dead body ...	318	ib.

Of Hurt.

Hurt	319	370

	Section.	Page.
Grievous hurt	320	370
Voluntarily causing hurt	321	371
Voluntarily causing grievous hurt	322	ib.
Punishment for voluntarily causing hurt	323	ib.
Voluntarily causing hurt by dangerous weapons or means...	324	ib.
Punishment for voluntarily causing grievous hurt ...	325	372
Voluntarily causing grievous hurt by dangerous weapons or means	326	ib.
Voluntarily causing hurt to extort property or to constrain to an illegal act	327	ib.
Causing hurt by means of poison, &c., with intent to commit an offence	328	ib.
Voluntarily causing grievous hurt to extort property or to constrain to an illegal act	329	373
Voluntarily causing hurt to extort confession or to compel restoration of property	330	ib.
Voluntarily causing grievous hurt to extort confession or to compel restoration of property	331	ib.
Voluntarily causing hurt to deter public servant from his duty	332	374
Voluntarily causing grievous hurt to deter public servant from his duty	333	ib.
Voluntarily causing hurt on provocation	334	ib.
Causing grievous hurt on provocation	335	ib.
Punishment for act which endangers life or the personal safety of others	336	375
Causing hurt by an act which endangers life or the personal safety of others	337	ib.
Causing grievous hurt by an act which endangers life or the personal safety of others	338	ib.

Of Wrongful Restraint and Wrongful Confinement.

Wrongful restraint	339	376
Wrongful confinement	340	ib.
Punishment for wrongful restraint	341	ib.
Punishment for wrongful confinement	342	ib.
Wrongful confinement for three or more days	343	ib.
Wrongful confinement for ten or more days	344	ib.
Wrongful confinement of person, for whose liberation a writ has been issued	345	377
Wrongful confinement in secret	346	ib.
Wrongful confinement for the purpose of extorting property or constraining to an illegal act	347	ib.
Wrongful confinement for the purpose of extorting confession or of compelling restoration of property	348	ib.

Of Criminal Force and Assault.

Force	349	378
Criminal Force	350	ib.
Assault	351	380
Punishment for using criminal force otherwise than on grave provocation	352	ib.
Using criminal force to deter a public servant from discharge of his duty	353	381

	Section.	Page.
Assault or use of criminal force to a woman with intent to outrage her modesty	354	381
Assault or criminal force with intent to dishonor a person, otherwise than on grave provocation	355	*ib.*
Assault or criminal force in attempt to commit theft of property carried by a person	356	*ib.*
Assault or criminal force in attempt wrongfully to confine person	357	*ib.*
Assaulting or using criminal force on grave provocation ...	358	*ib.*
Of Kidnapping, Abduction, Slavery, and Forced Labor.		
Kidnapping	359	382
Kidnapping from British India	360	*ib.*
Kidnapping from lawful guardianship	361	383
Abduction	362	*ib.*
Punishment for kidnapping	363	*ib.*
Kidnapping or abducting in order to murder	364	*ib.*
Kidnapping or abducting with intent secretly and wrongfully to confine a person	365	*ib.*
Kidnapping or abducting a woman to compel her marriage, &c.	366	384
Kidnapping or abducting in order to subject a person to grievous hurt, slavery, &c.	367	*ib.*
Wrongfully concealing or keeping in confinement a kidnapped person	368	*ib.*
Kidnapping or abducting child under ten years with intent to steal movable property from the person of such child ...	369	*ib.*
Buying or disposing of any person as a slave ...	370	*ib.*
Habitual dealing in slaves	371	*ib.*
Selling of any minor for purposes of prostitution, &c. ...	372	385
Buying of any minor for purposes of prostitution	373	*ib.*
Unlawful compulsory labor	374	*ib.*
Of Rape.		
Rape	375	*ib.*
Punishment for rape	376	386
Of Unnatural Offences.		
Unnatural offences	377	*ib.*

CHAPTER XVII.

Of Offences against Property.—Page 386 to 414.

Of Theft.		
Theft defined and explained	378	387
Punishment for theft	379	389
Theft in dwelling houses, &c.	380	*ib.*
Theft by clerk or servant of property in possession of master	381	*ib.*
Theft after preparation made for causing death or hurt in order to the committing of the theft	382	*ib.*
Of Extortion.		
Extortion defined and explained by illustrations ...	383	390

	Section.	Page.
Punishment for extortion	384	390
Putting person in fear of injury in order to commit extortion	385	391
Extortion by putting a person in fear of death or grievous hurt	386	*ib.*
Putting person in fear of death or of grievous hurt, in order to commit extortion	387	*ib.*
Extortion by threat of accusation of an offence punishable with death or transportation, &c.	388	*ib.*
Putting person in fear of accusation of offence, in order to commit extortion	389	*ib.*
Of Robbery and Dacoity.		
Robbery defined and explained with illustrations ..	390	392
Dacoity defined	391	393
Punishment for robbery	392	*ib.*
Attempt to commit robbery	393	*ib.*
Voluntarily causing hurt in committing robbery ..	394	*ib.*
Punishment for dacoity	395	394
Dacoity with murder	396	*ib.*
Robbery or dacoity, with attempt to cause death or grievous hurt	397	*ib.*
Attempt to commit robbery or dacoity when armed with deadly weapon	398	*ib.*
Making preparation to commit dacoity	399	*ib.*
Punishment for belonging to a gang of dacoits	400	*ib.*
Punishment for belonging to a wandering gang of thieves	401	*ib.*
Assembling for purpose of committing dacoity	402	395
Of Criminal Misappropriation of Property.		
Dishonest misappropriation of property	403	*ib.*
Dishonest misappropriation of property possessed by a deceased person at the time of his death	404	397
Of Criminal Breach of Trust.		
Criminal breach of trust defined and explained with illustrations	405	*ib.*
Punishment for criminal breach of trust	406	398
Criminal breach of trust by carrier, &c.	407	*ib.*
Criminal breach of trust by a clerk or servant ..	408	*ib.*
Criminal breach of trust by public servant, or by banker, merchant, or agent	409	399
Of the receiving of Stolen Property.		
Stolen property defined	410	*ib.*
Dishonestly receiving stolen property	411	*ib.*
Dishonestly receiving property stolen in the commission of a dacoity	412	*ib.*
Habitually dealing in stolen property	413	400
Assisting in concealment of stolen property	414	*ib.*
Of Cheating.		
Cheating defined and explained with illustrations ...	415	*ib.*

	Section.	Page.
Cheating by personation, defined and explained with illustrations	416	401
Punishment for cheating	417	402
Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect	418	*ib.*
Punishment for cheating by personation	419	*ib.*
Cheating and dishonestly inducing a delivery of property ..	420	*ib.*
Of Fraudulent Deeds and Dispositions of Property.		
Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors	421	403
Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender	422	*ib.*
Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration ...	423	*ib.*
Dishonest or fraudulent removal or concealment of property...	424	*ib.*
Of Mischief.		
Mischief explained and defined with illustrations ..	425	404
Punishment for committing mischief	426	405
Committing mischief and thereby causing damage to the amount of fifty Rupees	427	*ib.*
Mischief by killing or maiming any animal of the value of ten Rupees	428	*ib.*
Mischief by killing or maiming cattle, &c., or any animal of the value of fifty Rupees	429	406
Mischief by injury to works of irrigation or by wrongfully diverting water	430	*ib.*
Mischief by injury to public road, bridge, or river	431	*ib.*
Mischief by causing inundation or obstruction to public drainage attended with damage	432	*ib.*
Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights ..	433	*ib.*
Mischief by destroying or moving, &c., a land-mark fixed by public authority	434	407
Mischief by fire or explosive substance, with intent to cause damage to amount of hundred Rupees	435	*ib.*
Mischief by fire or explosive substance, with intent to destroy a house, &c.	436	*ib.*
Mischief, with intent to destroy or make unsafe a decked vessel or a vessel of twenty tons' burden	437	*ib*
Punishment for the mischief described in the last Section, when committed by fire or any explosive substance ..	438	*ib.*
Punishment for intentionally running vessel aground or ashore, with intent to commit theft, &c.	439	408
Mischief committed after preparation made for causing death or hurt	440	*ib.*
Of Criminal Trespass.		
Criminal trespass defined	441	409
House-trespass defined	442	*ib.*
Lurking house-trespass defined..	443	*ib.*

	Section.	Page.
Lurking house-trespass by night defined	444	409
House-breaking defined, explained with illustrations, ..	445	ib.
House-breaking by night defined	446	410
Punishment for criminal trespass	447	ib.
Punishment for house-trespass	448	ib.
House-trespass in order to the commission of an offence punishable with death	449	ib.
House-trespass in order to the commission of an offence punishable with transportation for life	450	ib.
House-trespass in order to the commission of an offence punishable with imprisonment	451	ib.
House-trespass after preparation made for causing hurt to any person	452	ib.
Punishment for lurking house-trespass or house-breaking ..	453	412
Lurking house-trespass or house-breaking. in order to the commission of an offence punishable with imprisonment	454	ib.
Lurking house-trespass or house-breaking after preparation made for causing hurt to any person	455	ib.
Punishment for lurking house-trespass or house-breaking by night	456	ib.
Lurking house-trespass or house-breaking by night, in order to the commission of an offence punishable with imprisonment	457	ib.
Lurking house-trespass or house-breaking by night, after preparation made for causing hurt to any person ..	458	413
Grievous hurt caused whilst committing lurking house-trespass or house-breaking	459	ib
All persons jointly concerned in house-breaking, &c., to be punishable for death or grievous hurt caused by one of their number	460	ib.
Dishonestly breaking open any closed receptacle containing or supposed to contain property . ..	461	ib.
Punishment for same offence when committed by person entrusted with custody	462	ib.

CHAPTER XVIII.

Of Offences relating to Documents and to Trade or Property-Marks.—Page 414 to 424.

Forgery defined	463	415
Making a false document, explained with illustrations	464	ib.
Punishment for forgery	465	417
Forgery of a record of a Court of Justice, or of a public Register of Births, &c.	466	418
Forgery of a valuable security or will . ..	467	ib.
Forgery for the purpose of cheating	468	ib.
Forgery for the purpose of harming the reputation of any person	469	ib.
"A forged document"	470	ib.
Using as genuine a forged document	471	419
Making or possessing a counterfeit seal, place, &c., with intent to commit a forgery punishable under Section 467	472	ib.
Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable otherwise	473	ib.

	Section.	Page.
Having possession of a valuable security or will known to be forged, with intent to use it as genuine	474	419
Counterfeiting a device or mark used for authenticating documents described in Section 467, or possessing counterfeit marked material	475	420
Counterfeiting a device or mark used for authenticating documents other than those described in Section 467, or possessing counterfeit marked material	476	*ib.*
Fraudulent cancellation, destruction, &c., of a will ...	477	*ib.*

Of Trade and Property Marks.

Trade mark defined	478	421
Property mark defined	479	*ib.*
Using a false trade mark defined	480	*ib.*
Using a false property mark defined	481	422
Punishment for using a false trade or property mark, with intent to deceive or injure any person	482	*ib.*
Counterfeiting a trade or property mark used by another, with intent to cause damage or injury	483	*ib.*
Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property	484	*ib.*
Fraudulent making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade mark	485	423
Knowingly selling goods marked with a counterfeit property or trade mark .. : ..	486	*ib.*
Fraudulently making a false mark upon any package or receptacle containing goods	487	*ib.*
Punishment for making use of any such false mark ...	488	424
Defacing any property-mark with intent to cause injury ...	489	*ib.*

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVICE.—Page 424 to 426

Breach of contract of service during a voyage or journey ...	490	424
Breach of contract to attend on and supply the wants of helpless persons	491	425
Breach of a contract to serve at a distant place to which the servant is conveyed at the master's expense	492	*ib.*

CHAPTER XX.

OF OFFENCES RELATING TO MARRIAGE.—Page 426 to 428

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage	493	426
Marrying again during the life-time of husband or wife ..	494	*ib.*
Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted	495	427
Marriage ceremony gone through with fraudulent intent, without lawful marriage	496	*ib.*
Adultery	497	*ib.*
Enticing or taking away or detaining with a criminal intent a married woman	498	*ib.*

CHAPTER XXI.

Of Defamation.—Page 428 to 432

		Page.
Defamation defined and explained with illustrations and exceptions	499	428
Punishment for defamation	500	432
Printing or engraving matter known to be defamatory ...	501	*ib.*
Sale of printed or engraved substance containing defamatory matter	502	*ib.*

CHAPTER XXII.

Of Criminal Intimidation, Insult, and Annoyance.—Page 432 to 435

Criminal intimidation defined and explained	503	433
Intentional insult with intent to provoke a breach of the peace	504	*ib.*
Circulating false report with intent to cause mutiny or an offence against the State, &c.	505	*ib.*
Punishment for criminal intimidation; and if threat be to cause death or grievous hurt, &c.	506	434
Criminal intimidation by an anonymous communication ...	507	*ib.*
Act caused by inducing a person to believe that he will be rendered an object of the divine displeasure ..	508	*ib.*
Word or gesture intended to insult the modesty of a woman	509	435
Misconduct in public by a drunken person	510	*ib.*

CHAPTER XXIII.

Of Attempts to Commit Offences.—Page 435 and 436

Punishment for attempting to commit offences punishable with imprisonment	511	435

ACT No. I. OF 1860.

[*Passed on the 5th January*, 1860.

Recites expediency of increasing the Duty on Salt in the N. W. Provinces.

1. Repeals the Duty under Act XIV. 1843, s. 2.

2. Enacts new Duty in lieu.

3. Indemnifies Officers for collecting the Duty authorized by this Act before the passing of the Act.

An Act to empower the Governor-General in Council to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal.

Preamble.

Whereas it is expedient to increase the rate of Duty on Salt imported into the North-Western Provinces of the Presidency of Bengal; It is enacted as follows:—

Law Repealed.

I. So much of Section II. of Act XIV. of 1843 (*for Regulating the levy of Customs Duties, and the manufacture of Salt in the North-Western Provinces of the Presidency of Bengal*) as prescribes the levy of a Duty of two Rupees per maund on the Import of Salt into the said Provinces, and of a further Duty of one Rupee per maund on the transmission thereof to the Eastward of Allahabad, is hereby repealed.

Customs Duty on Salt imported into the North-Western Provinces.

II. It shall be lawful for the Governor-General in Council to order the levy, on and after the 24th day of December 1859, of a Customs Duty not exceeding three Rupees per maund on Salt imported into the North-Western Provinces of the Presidency of Bengal. A further Duty not exceeding one Rupee per maund, to be fixed by order of the Governor-General in Council, shall on and after the said 24th day of December 1859 be leviable on the transmission of Salt to the Eastward of Allahabad.

Indemnity to Collectors, &c.

III. Every Collector of Customs and other Officer is hereby indemnified for any thing done on and after the said 24th day of December 1859 in collect-

ing or enforcing the Duty imposed under the provisions of this Act or by virtue of any order of Government heretofore made authorizing the levy of any such Duty; or in otherwise carrying this Act into effect: and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done.

CARRIAGE OF PASSENGERS BY SEA.

ACT No. II. OF 1860.

[*Passed on the* 15*th January*, 1860.

Recites s. 99 of Passengers Act of Parliament.

1. Applies ss. 1, 2, 3 and 4 of this Act, being parts of the Act of Parliament, to specified voyages.

2, 3. Passengers on such voyages if picked up at Sea may be forwarded to destination by Governor or Consular agent: and (3) if taken to place out of the course of the voyage may also be forwarded by Governor or Consular agent, unless Master of Ship enters into undertaking.

4. Expenses incured by Governor or Consular agent under last two Sections to be a debt to H. M. from the owner, Charterer and Master of the Ship.

An Act to amend the law relating to the Carriage of Passengers by Sea.

Preamble.

Whereas by Section XCIX. of an Act of the Imperial Parliament called "The Passengers Act 1855," it is enacted that "it shall be lawful for the Governor General of India in Council, from time to time, by any Act or Acts to be passed for that purpose, to declare that this Act or any part thereof shall apply to the carriage of passengers upon any voyage, from any Ports or places within the Territories of British India, to be specified in such Act or Acts, to any other places whatsoever, to be also specified in such Act or Acts:" and it is thereby also enacted that "on the passing of such Indian Act or Acts, and whilst the same shall remain in force, all such parts of this Act as shall be adopted therein shall apply to and extend to the carriage of passengers upon such voyages as in the said Indian Act or Acts shall be specified. The provisions of such Indian Act shall be enforced in all Her Majesty's possessions in like manner as the provisions of this Act may be enforced." and whereas it is expedient to make certain parts of the said Act of

Parliament applicable to the carriage of Passengers upon the voyages hereinafter specified: It is enacted as follows:—

Certain provisions of the Statute made applicable.

I. The provisions contained in Sections II. III. and IV. of this Act (being parts of the said Act of Parliament) are declared applicable to the carriage of Passengers upon the following voyages:—

Voyages from the Ports of Calcutta, Madras, and Bombay, to the Mauritius, under Act XV. of 1842.

Voyages from the Ports of Calcutta, Madras, and Bombay. to Jamaica, British Guiana, and Trinidad, under Act XXI. of 1844.

Voyages from the Ports of Calcutta, Madras, and Bombay, to St. Lucia and Grenada, under Act XXXI. of 1855.

Voyages from Ports in British India, to Ports in the Red Sea or Persian Gulf, under Act XXI. of 1858.

Governors or Consuls may pay expenses of Passengers taken off a Passenger ship.

II. If the Passengers on any such voyage as is specified in the last preceding Section, shall be taken off from the ship carrying such Passengers, or shall be picked up at Sea from any boat, raft, or otherwise, it shall be lawful, if the Port or place to which they shall be conveyed shall be in any of Her Majesty's Colonial possessions, for the Governor of such Colony, or for any person authorized by him for the purpose, or if in any Foreign country, for Her Majesty's Consular Officer, at such Port or place therein, to defray all or any part of the expenses thereby incurred.

Governors or Consuls may send on Passengers, if the Master of the ship fail to do so.

III. If any Passenger of any such Passenger ship as aforesaid shall, without any neglect or default of his own, find himself within any Colonial or Foreign Port or place other than that at which he may have contracted to land, it shall be lawful for the Governor of such Colony, or for any person authorized by him for the purpose, or for Her Majesty's Consular Officer at such Foreign Port or place, as the case may be, to forward such Passenger to his intended destination, unless the Master of such ship shall, within forty-eight hours of the arrival of such Passenger, give to the Governor or Consular Officer, as the case mny be, a written undertaking to forward or carry on within six weeks thereafter such Passenger to his original destination, and unless such Master shall accordingly forward or carry him on within that period.

IV. All expenses incurred under the last two preceding Sections or either of them, by or by the authority of such Governor or Consular Officer, as aforesaid, including the cost of maintaining the Passengers until forwarded to their destination, and of all necessary beddings, provisions, and stores, shall become a debt to Her Majesty and Her successors from the Owner, Charterer, and Master of such ship, and shall be recoverable from them, or from any one or more of them, at the suit and for the use of Her Majesty, in like manner as in the case of other Crown debts; and a certificate purporting to be under the hand of any such Governor or Consular Officer (as the case may be) stating the total amount of such expenses, shall in any suit or other proceeding for the recovery of such debt be received in evidence without proof of the hand-writing or of the Official character of such Governor or Consular Officer, and shall be deemed sufficient evidence of the amount of such expenses, and that the same were duly incurred. Provided nevertheless that in no case shall any larger sum be recovered on account of such expenses than a sum equal to twice the total amount of passage money received by the Owner, Charterer, or Master of such Passenger ship or any of them, from or on account of the whole number of Passengers who may have embarked in such ship; which total amount of passage money shall be proved by the defendant if he will have the advantage of this limitation of the debt: but if any such Passengers are forwarded or conveyed to their intended destination under the provisions of the last preceding Section, they shall not be entitled to the return of their passage money, or to any compensation for loss of passage.

Expenses incurred under the two preceding Sections to be a Crown debt.

Passengers forwarded by Governor, &c. not entitled to compensation.

BENGAL. SESSIONS JUDGES. CRIMINAL LAW.

ACT No. III. OF 1860.

[*Passed on the* 16*th January*, 1860.

Recites expediency of enlarging the power of Sessions Judges to pass Criminal Sentences.

1. Repeals R. 17, 1817, s. 6, c. 3, and s. 9, c. 3; and modifies R. 6, 1832, s. 4.

2, 3. Empowers Sessions Judge to sentence to 7 years' imprisonment with labor in irons for rape; also (3) for penal offence under R. 6, 1832.

4, 5. Empowers Sessions Judge to pass sentence for perjury, forgery, and subornation and procuring those crimes under R. 2, 1807 and R. 17, 1817 unless (5) he considers a severer sentence than he can pass necessary.

An Act to empower Sessions Judges to pass sentence in certain cases without reference to the Sudder Court.

Preamble.

Whereas it is expedient to empower Sessions Judges in the Presidency of Fort William in Bengal, to pass sentence in certain trials without reference to the Nizamut Adawlut; and whereas it is likewise expedient to remove the restriction now imposed by law upon Sessions Judges in regard to the minimum of punishment which they are competent to inflict in cases of perjury and certain cases of forgery described in Clause 2 Section IX. Regulation XVII. 1817: It is enacted as follows:—

Laws repealed and modified.

I. Clause 3 Section VI. and Clause 3 Section IX. Regulation XVII. 1817 of the Bengal Code are hereby repealed; and Section IX. of the same Regulation, and Section IV. Regulation VI. 1832 of the same Code, are hereby modified.

Sentence by Sessions Judge in case of conviction of rape.

II. When a person is convicted of the crime of rape, if the circumstances of the case shall not appear to call for a more severe punishment than imprisonment for seven years with labor in irons, the Sessions Judge before whom the trial is held shall himself pass sentence.

Sentence by Sessions Judge in case of conviction of a crime declared by the Sudder Court to be a penal offence.

III. When a person is convicted in a trial held under the provisions of Regulation VI. 1832, of a crime declared by a precedent of the Nizamut Adawlut to be a penal offence, if the circumstances of the case shall not appear to call for a more severe punishment than seven years' imprisonment with labor in irons, the Sessions Judge before whom the trial is held shall himself pass sentence. If, however, the crime of which the person has been convicted has not been declared to be a penal offence by a precedent of the Nizamut Adawlut, the Sessions Judge shall not proceed to pass sentence, but shall refer the case for the consideration of the Nizamut Adawlut, stating at length in the proceedings the opinion of the punchayet, assessors, or

jury, and his own opinion, as to the crime proved and the nature and extent of the punishment which should be awarded.

Sentence by Sessions Judge in case of conviction of perjury or forgery.

IV. When a person is convicted of the crime of perjury or subornation of perjury or of forgery or of procuring forgery, as defined and made punishable by Regulations II. 1807 and XVII. 1817 of the Bengal Code, the Sessions Judge shall pass such sentence on the offender as he may consider adequate to the offence in reference to the particular circumstances of the case; provided that he shall in no case exceed the limit of the powers vested in him by Clause 2 Section IX. of the Regulation last mentioned.

Sessions Judge may refer a case to the Sudder Court.

V. If in any case coming under the provisions of this Act, the Sessions Judge shall consider the sentence which he is empowered to pass inadequate to the guilt of the prisoner, he shall refer the case, with his sentiments, for the sentence of the Nizamut Adawlut in conformity to Section VI. Act XXXI. of 1841, which is hereby declared applicable to such cases.

CIVIL PROCEDURE.

ACT No. IV. OF 1860.

[*Passed on the 23rd January*, 1860.

Recites expediency of amending Act VIII. 1859.

1. Repeals provision requiring 3 Judges on appeals in Sudder Adawlut and provides for different number and new procedure.

2. Repeals Act VIII. 1859 s. 215. and substitutes new provision.

3. Empowers local Government to extend Civil Procedure Act to non-regulation parts with limitations and conditions attached, but such extension to be sanctioned by G. G. in C.

An Act to amend Act VIII. of 1859 (for simplifying the procedure of the Courts of Civil Judicature not established by Royal Charter).

Preamble.

Whereas it is expedient to amend Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*): It is enacted as follows:—

Appeal to Sudder Court to be heard by two or more Judges.

I. From and after the passing of this Act so much of the 332nd Section of Act VIII. of 1859, as enacts that "If the appeal lie to the Sudder Court it shall be heard and determined by a

Court consisting of three or more Judges of that Court," shall be repealed, and in lieu thereof the following shall form portion of the said Section:—

"If the appeal lie to the Sudder Court, it shall be heard and determined by a Court consisting of two or more Judges of that Court. If, when the Court shall consist of only two Judges, there is a difference of opinion upon the evidence in cases in which it is competent to the Court to go into the evidence, and one Judge concur in opinion with the Lower Court as to the facts, the case shall be determined accordingly: If in a Court so constituted there is a difference of opinion upon a point of law, the Judges shall state the point upon which they differ, and the case shall be re-argued upon that question before one or more of the other Judges and shall be determined according to the opinion of the majority of the Judges of the Sudder Court by whom the appeal is heard."

Procedure on receiving application for execution of decree.

II. From and after the passing of the 215th Section of the said Act shall be repealed, and in lieu thereof the following shall be the 215th Section:—

"The Court, on receiving any application for execution of a decree containing the particulars above mentioned or such of them as may be applicable to the case, shall enter a note of the application and the date on which it was made in the Register of the suit. If it shall be shown to the Court that the particulars do not correspond with the original decree, the Court shall either return the application for correction to the person making it, or shall, with the consent of such person, cause the necessary correction to be made. If the application be admitted, the Court shall order execution of the decree according to the nature of the application."

Extension of Act to Non-Regulation Provinces.

III. When under the provisions of Section 385 of the said Act the Act is extended to any part of the territories not subject to the general Regulations of Bengal, Madras, and Bombay, it shall be lawful for the Government to which the territory is subordinate to declare that the Act shall take effect therein subject to any restriction, limitation, or proviso which it may think proper. In such case the restriction, limitation, or proviso shall be inserted in the declaration or notification of such extension. When the Act is extended by the Local Government to any territory

subordinate to such Government and such extension is made subject to any restriction, limitation, or proviso, the previous sanction of the Governor General of India in Council shall be requisite.

CATTLE TRESPASS.

ACT No. V. OF 1860.

[*Passed on the 8th February*, 1860.

Recites part of Act III. 1857, as respects fines.

1. Surplus of fines after payment of salaries and expenses may be applied to roads, bridges, &c.

2, 3, 4. In Madras gives jurisdiction in Cattle Trespass cases to Judge or Magistrate but not to (3) Head of Police, Police Ameens, Village Moonsiffs' except by order of Magistrate; and (4) construes Act III. 1857, s. 4.

5. Act to be read as part of Act 3, 1857.

An Act to amend Act III. of 1857 (relating to trespasses by Cattle).

Preamble.

Whereas, under the provisions of Act III. of 1857, fines may be levied from the owners of Cattle found trespassing and doing damage, or straying in any public place, and all unclaimed Cattle so found may be sold after sufficient notice; and whereas it is provided in the said Act that the sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle shall be applied to the payment of the salaries of pound-keepers and other purposes connected with the execution of the Act; and whereas the amount of the said sums may be larger than is required for the said purposes, and it is expedient to provide for their legal application to other purposes: It is enacted as follows:—

Appropriation of surplus fines, &c.

I. When the amount of the sums received on account of fines and the unclaimed proceeds of the sale of unclaimed Cattle is larger than is required for the payment of the salaries allowed to pound-keepers and the expenses incurred for the construction and maintenance of pounds and other purposes connected with the execution of the said Act, any surplus which may remain after making full provision for the said salaries and expenses may be applied, under the direction of the local Government, to the construction and repair of roads and bridges, and other works of a like nature.

MADRAS PRESIDENCY.
Procedure in dealing with the offences of forcibly opposing the seizure of Cattle, or rescuing Cattle.

II. In the territories under the Government of Fort Saint George, it shall be lawful for Police Officers, in dealing according to the provisions of Section XXVII. Regulation XI. 1816 of the Madras Code with the offences specified in Section XIII. of the said Act, to forward their proceedings with the offenders and witnesses either to the Magistrate or to the Criminal Judge. Magistrates shall have jurisdiction to award punishment under the said Act for such offences within the limits of the powers vested in them by law.

MADRAS PRESIDENCY.
Heads of Police &c. not to be deemed Officers having Criminal jurisdiction within the meaning of Section XIV. Act III. of 1857.

III. In the territories under the Government of Fort Saint George, Heads of Police, Police Ameens, and Village Moonsiffs shall not be deemed Officers having Criminal jurisdiction authorized to receive and try charges without reference by the Magistrate within the meaning of Section XIV. of the said Act.

MADRAS PRESIDENCY.
Construction of the words "Heads of Villages" in Section IV. Act III. of 1857.

IV. Section IV. of the said Act shall be read throughout the General Police District of the Presidency of Madras, as if the words "Village Inspectors" were substituted for "Heads of Villages."

Act to be read as part of Act III. of 1857.

V. This Act shall be read with and taken as part of Act III. of 1857.

ARTICLES OF WAR—NATIVE ARMY.

ACT No. VI. OF 1860.

[*Passed on the 23rd February*, 1860.

Recites expediency of amending Articles 78 and 112.

1. Adds a Clause to Art. LXXVIII. empowering C. in C. to confer powers of District or Garrison Court Martial on Commanding Officer to try offenders and carry out Sentences: (2) Such Commanding Officer to be a Court Martial: (3) but to hold Court in presence of 2 or more Commissioned Officers, &c.

2. Adds a clause to the 112th Art. to forfeit pay of soldiers confined under that Art.

An Act to amend Act XIX. of 1847 (Articles of War for the Native Army.)

Preamble.

Whereas it is expedient to amend the 78th and 112th Articles of War for the Government of the Native Officers and Soldiers in the Military Service: It is enacted as follows:—

Powers of Commanding Officers of Native Regiments in punishing certain offences committed by Non-Commissioned Officers and Soldiers and Native Camp-followers.

I. There shall be added to the 78th Article of War for the Native Army the words following (that is to say)—

1. The Commander-in-Chief of the Presidency to which any Regiment belongs may confer the powers specified in this Article on the Commanding Officer for the time being of such Regiment. The Commanding Officer for the time being of such Regiment may summarily try all offences against the Articles of War for the Native Army committed by any person subject to those Articles (not being a Commissioned Officer), and sentence such offender on conviction, and carry out such sentence without confirmation or any further authority, notwithstanding any provision to the contrary contained in the said Articles of War; provided that such sentence shall not exceed the powers of a District or Garrison Court-Martial.

2. A Commanding Officer holding a trial under this Act shall be deemed a Court-Martial, and the word "Court-Martial" in 64, 66, 67, and 98, of the said Articles of War, so far as such Articles are applicable to persons amenable thereto, shall be deemed to include a Commanding Officer holding such trial.

3. The proceedings on such summary trials by a Commanding Officer shall be conducted in the presence of two or more European or Native Commissioned Officers, and shall be recorded in the English language, and the evidence shall be taken on oath or affirmation and interpreted by a competent Interpreter upon solemn affirmation; and when the Commanding Officer shall have recorded the finding and sentence, the proceedings shall be signed by such Commanding Officer and by the Officers in whose presence the trial was held, and shall, without delay, be forwarded to the General Officer Commanding the Division, who is hereby authorized to set aside the trial for reasons based on the merits of the case, but not of a merely technical nature, provided that every sentence so awarded by the Commanding Officer may be carried out without waiting for its approval by the reviewing Officer.

Forfeiture of pay and allowances during confinement under the 112th Article of War.

II. There shall be added to the 112th Article of War for the Native Army the words following (that is to say)—

Provided also that Soldiers subjected to confinement in the Quarter Guard, or Defaulter's Room, or to solitary confinement as aforesaid, under this Article, shall forfeit all claim to pay and allowances during such confinement, and shall receive subsistence only, according to the rates of pay laid down in the Regulations.

LIMITED LIABILITY.—JOINT STOCK BANKS.

ACT No. VII. OF 1860.

[*Passed on the 24th February*, 1860.

Recites expediency of making Joint Stock Banks to form under limited liability.

1. Repeals the restrictions of Act XIX. 1857, s 1, which excludes J. S. Banks from that Act, but liability not to be limited in regard to issue of Notes in India.

2. Existing Banks before registering for limited liability to give notice to every creditor.

3. Statement in form of Schedule to Act to be stuck up on Bank twice a year.

4. Vests in registered company all assets held in trust for the old Bank.

5. Empowers Banks consisting of 7 or more persons with shares of fixed amounts to register on vote of majority of shareholders present and proxus and on registration deed of settlement to cease to operate, so far as it is inconsistent with Act XIX. 1817.

6, 7. Registration not to affect or limit liability of bank existing at time of registration; nor (7) liability of shareholders.

8. Suits pending against old bank may be continued; but execution not to issue against individual shareholders, &c.

9. Banks registered under this Act to be wound up under Act XIX 1857.

10, 11. Act not to affect Banks of Bengal, Bombay and Madras, and (11) to be read as part of Act XIX. 1857.

Schedule.

An Act to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability.

Preamble.

Whereas it is expedient to enable Joint Stock Banking Companies to be formed on the principle of Limited Liability: It is enacted as follows:—

Laws repealed.

I. So much of Section I. of Act XIX. of 1857 (*for the incorporation and regulation of Joint Stock Companies and other Associations, either with or*

without Limited Liability of the Members thereof) as provides that nothing in that Act shall authorize any persons to form themselves into a Joint Stock Company or Association with Limited Liability for the purpose of Banking; and so much of Section XCIX. of the said Act as provides that no Company established for the purpose of Banking shall be registered under that Act as a Limited Company are hereby repealed, subject to the following Proviso, that no Banking Company, claiming to issue notes in India shall be entitled to Limited Liability in respect of such issue, but shall continue subject to unlimited Liability in respect thereof, and that, if necessary, the assets shall be marshalled for the benefit of the general creditors, and the shareholders shall be liable for the whole amount of the issue in addition to the sum for which they would be liable as Shareholders of a Limited Company.

Existing Company, before obtaining registration under this Act, to give notice to Customers.

II. Every existing Banking Company which shall register itself as a Limited Banking Company, shall at least thirty days previously to obtaining a certificate of Registration with Limited Liability, give notice that it is intended so to register the same, to every person and partnership firm who shall have a Banking Account with the Company, and such notice shall be given either by delivering the same to such person or firm, or leaving the same or putting the same into the Post in a registered letter addressed to him or them at such address as shall have been last communicated or otherwise become known as his or their address to or by the Company; and in case the Company shall omit to give any such notice as is hereinbefore required to be given, then as between the Company and the person or persons only who are for the time being interested in the account in respect of which such notice ought to have been given, and so far as respects such account and all variations thereof down to the time at which such notice shall be given, but not further or otherwise, the certificate of registration with Limited Liability shall have no operation.

Limited Banking Company to furnish a statement.

III. Every Limited Joint Stock Banking Company shall, before it commences business, or if a Banking Company, at the time carrying on business with unlimited Liability, before it avails itself of the

provisions of this Act, and also on the 1st day of February and 1st day of August in every year during which it carries on business, make a statement in the form contained in the Schedule hereto annexed, or as near thereto as circumstances will admit; such statement shall be in addition to the balance sheet required by the said Act to be made out and filed with the Registrar of Joint Stock Companies: a copy of such statement shall be put up in a conspicuous place in the Registered Office of the Company, and in every branch Office or place where the Banking business of the Company is carried on, and if default is made in due compliance with the provisions of this Section, each Director shall be liable to a penalty not exceeding fifty Rupees for every day during which such default continues, and such penalties shall be recovered in a summary manner.

Trust property.

IV. All such estate or interest in movable and immovable property, and all such deeds, bonds, obligations, and rights as may belong to, or be vested in, any person or persons in trust for any Banking Company at the date of its Registration under this Act or in trust for any other Company at the date of its Registration under the said Act XIX. of 1857, shall immediately on Registration vest in such Banking or other Company, but no Merger shall take place of any estates by reason of their uniting in the Company under this Section, without the express consent of the Company, certified by some instrument under their common seal.

Existing Banking Companies may register under this Act.

V. Any Banking Company consisting of seven or more persons having a capital of fixed amount and divided into shares also of fixed amount, legally carrying on the business of Banking previously to the passing of this Act, may at any time hereafter, with the assent of a majority of such of its Shareholders as may have been present in person, or in cases where proxies are allowed by the regulations of the Company by proxy at some General Meeting summoned for the purpose, register itself as a Company under this Act, and when so registered all such provisions contained in any Letters Patent or Deed of Settlement constituting or regulating the Company as are inconsistent with the said Act XIX. of 1857 or with this Act, shall no longer apply to the Company so registered, but such Registration shall not take away or

affect any powers previously enjoyed by such Company of Banking, issuing notes payable on demand, or of doing any other thing.

Registration under this Act not to affect obligations incurred previously to registration.

VI. The Registration under this Act of any Banking Company existing at the time of the passing of this Act, and hereby authorized to be registered, shall not affect or prejudice the liability of such Company to have enforced against it or its right to enforce any debt or obligation incurred, or any contract entered into, by, to, with or on account of such Company, previously to such Registration, and all such debts, obligations, and contracts shall be binding on the Company when so registered, and the other parties thereto, to the same extent as if such Registration had not taken place.

Saving of liabilities of persons holding shares before Registration under Act.

VII. Every person who at or previously to the date of the Registration under this Act of any Banking Company hereby authorized to be registered, may have held shares in such Company shall, in the event of the same being wound-up by the Court or voluntarily, be liable to contribute to the assets of the Company the same amount that he would, if this Act had not been passed, have been liable to pay to the Company, for, or on account of any debt of the Company in pursuance of any action, suit, judgment, or other legal proceeding that might, if this Act had not been passed, have been instituted or enforced against himself or the Company.

Continuation of existing actions and suits.

VIII. All such actions, suits, and other legal proceedings as may at the time of the Registration under this Act of any Company hereby authorized to be registered have been commenced by or against such Company or the Public Officer thereof, may be continued in the same manner as if such Registration had not taken place; nevertheless execution shall not issue against the effects of any individual Shareholder in, or member of, such Company upon any judgment, decree, or order obtained against such Company in any action, suit, or proceeding so commenced as aforesaid; but in the event of the property and effects of the Company being insufficient to satisfy such judgment, decree, or order, an order may be obtained for winding-up the Company in manner directed by the said Act XIX. of 1857.

Winding-up.

IX. All Companies registered under this Act shall be wound-up in the manner directed by the said Act XIX. of 1857.

Act not to apply to Banks of Bengal, Madras, or Bombay.

X. Nothing in this Act shall affect Act VI. of 1839, *(relating to the Bank of Bengal)*, Act III. of 1840 *(for the incorporation of a Bank at Bombay)*, or Act IX. of 1843 *(for the incorporation of a Bank at Madras)*, or shall be deemed to apply to the several Banks of Bengal, Madras, and Bombay incorporated by the said Acts respectively.

Construction of Act.

XI. This Act shall be deemed to be incorporated with and to form part of the said Act XIX. of 1857.

SCHEDULE.

Form of Statement to be published by a Limited Joint Stock Banking Company.

The Liability of the Shareholders is limited.

The capital of the Company is divided into Shares of Rupees each.

The number of Shares issued is

Calls to the amount of

per Share have been made, under which the sum of Rupees has been received.

The liabilities of the Company on the first day of January (or July) were—

	Rs.	As.	P.
Notes issued, ...			
Deposits not bearing Interest, ...			
Deposits bearing Interest, ...			
Seven Day and other Bills.			
Total,			

The assets of the Company on that day were—

	Rs.	As.	P.
Government Securities, ...			
Bills of Exchange, ...			
Loans on Mortgage, ...			
Other Loans, ...			

	Rs.	As.	P.
Bank Premises, ...			
Other Securities, exclusive of unpaid Calls on Shares, ...			
Total,			

Dated the first day of or one thousand eight hundred and

ELECTRIC TELEGRAPHS.

ACT No. VIII. OF 1860.

[*Passed on the 12th March*, 1860.

Recites expediency of making better regulations for Electric Telegraphs.

1. Repeals Act XXXIV. 1854.

2. Confers on G. G. in C. exclusive privilege of establishing Electric Telegraphs in India, but G. G. in C. may grant licence to establish a Telegraph, subject to revocation.

3. 4. Establishes penalty for establishing or maintaining and (4) for using Telegraph line without, or after revocation of licence.

5. Empowers the G. G. in C. to take possession of licensed line on occurrence of public emergency.

6. Enjoins Railway Companies to permit G. G. in C. to establish Telegraph along their line.

7. Empowers G. G. in C. to frame rules for Electric Telegraphs.

8. Exempts Government from responsibility for inaccuracy in messages, and all persons from responsibility, except in case of negligence, malice or fraud.

9, 10, 11, 12, 13, 14, 15. Establish fine for entering, &c. the signal room and (10) for causing interruption to transmission of signals, cutting the wire, &c.; and (11) on servants in the Telegraph department for secreting, &c. messages; and (12) for offering bribe to persons in Telegraph department; and (13) on such persons for drunkenness, &c., whereby messages are endangered, and for loitering and delay; and (14) for fraud in transmitting unpaid message; and (15) for false or fabricated message.

16, 17, 18. For offences under ss. 10 to 15, persons not being European British subjects may be tried by Magistrate, and European B. subjects by Supreme Court; and (17) all classes by Supreme Court for offences committed within its local limits or (18) by Magistrate if punishable only by fine.

19. Fines may be levied by distress and sale of offender's goods and in default of satisfaction offender to be imprisoned.

20. Extends the Act to offences against the Act committed by Electric Telegraph servants in foreign native states.

21. Extends word "Magistrate" to "Joint Magistrate," and to persons having the powers of Magistrates, and the word "Fine" to penalties and forfeitures.

22. Empowers G. G. in C. to establish rules for licensed telegraphs, and to telegraphs in foreign native states.

An act for regulating the establishment and management of Electric Telegraphs in India.

Preamble.

Whereas it is expedient that better provision should be made for regulating the establishment and management of lines of Electric Telegraph in India: It is enacted as follows:—

Act repealed.

I. Act XXXIV. of 1854 (*for regulating the establishment and management of Electric Telegraphs in India*) is hereby repealed, except as to any act or offence which shall have been done or committed, or to any fine or penalty which shall have been incurred, or to any proceedings which shall have been commenced, before this Act shall come into operation, and except also as to any license for the establishment of a line of Electric Telegraph granted under the said Act. All things done under the authority or in pursuance of the said Act, shall be as valid and effectual as if this Act had not been passed.

Governor General in Council to have the exclusive privilege of establishing Electric Telegraphs.

Proviso.

II. Within the British territories in India, the Governor-General of India in Council shall have the exclusive privilege of establishing lines of Electric Telegraph. Provided that the Governor-General of India in Council may grant a license to any person or Company to establish a line of Electric Telegraph within any part of such territories, which license shall be revocable on the breach of any of the conditions therein contained.

Penalties for establishing or maintaining unauthorized Electric Telegraphs.

III. Whoever shall otherwise than under a license duly granted as aforesaid establish, or after revocation of such license maintain, a line of Electric Telegraph within the said territories, shall be liable to a fine not exceeding one thousand Rupees, and for every week during which such line shall be maintained shall be liable to a further fine not exceeding five hundred Rupees.

IV. Whoever shall use a line of Electric Telegraph, knowing

Penalty for using or working such Telegraphs.

or having reason to believe that it is an unlicensed line, for the purpose of sending or receiving messeges, or shall perform any service incidental thereto, shall for every such offence be liable to a fine not exceeding fifty Rupees.

Government may take possession of Telegraphs established by license.

V. The Governor-General of India in Council may, on the occurrence of any public emergency, take temporary possession of any line of Electric Telegraph established under license within the said territories.

Government may establish Telegraphs on land of Railway Company.

VI. Any Railway Company, on being required so to do by the Governor-General of India in Council, shall permit the Government to establish upon the land of such Company adjoining the line of Railway, a line of Electric Telegraph, and shall give every reasonable facility for establishing and using the same.

Governor-General in Council to frame rules for the conduct of Government Telegraphs.

VII. The Governor-General of India in Council may from time to time frame rules for the conduct of Electric Telegraphs established by Government not inconsistent with this Act, and therein prescribe the regulations, conditions, and restrictions according to which all messages and signals shall be transmitted.

Government not responsible for loss or damage.

VIII. The Government shall not be responsible for any loss or damage which may occur in consequence of any person employed by the Government in the Electric Telegraph Department failing to transmit with accuracy any message entrusted to him for transmission; and no such person shall be responsible for any such loss or damage, unless he shall cause the same negligently, maliciously, or fraudulently.

Penalty for intruding into signal room, &c.

IX. Whoever shall, without permission, enter into the signal room of a Government Telegraph Office, or shall refuse to quit the same on being requested to do so by any Officer or servant employed therein, or shall wilfully obstruct or impede any such Officer or servant in the performance of his duty, shall be liable to a fine not exceeding one hundred Rupees.

X. Whoever shall wilfully cause or attempt to cause any in-

Penalties for cutting the line.

terruption to the transmission of signals along a line of Electric Telegraph established by the Government, by cutting or injuring the wire, or by injuring any portion of the line or posts or any instrument or apparatus, or by any other means, shall be liable to imprisonment, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for omitting to transmit or deliver messages or for divulging messages, &c.

XI. Whoever, being in the employ of the Government in the Electric Telegraph Department, shall wilfully secrete, make away with, alter, or omit to transmit any message which he may have received for transmission or delivery, or shall wilfully or otherwise than by the Official order of a Secretary to the Government of India, or Government of Madras or Bombay, or Lieutenant-Governor of Bengal or of the North-Western Provinces, or of the Punjab, or Chief Commissioner of Oude, or such other Officers as the Governor-General of India in Council shall authorize to give such order, divulge any message or the purport of any message or signal to any person not entitled to receive, or to become acquainted with the same—shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalty for offering a bribe.

XII. Whoever offers a bribe to any person in the employ of the Government in the Electric Telegraph Department in order to induce such person to act in a manner inconsistent with his duty, shall be liable to be imprisoned for a term not exceeding six months, or to fine, or to both.

Penalty for misconduct.

XIII. Whoever, being in such employ, shall be guilty of any act of drunkenness, carelessness, or other misconduct, whereby the transmission or delivery of any message shall be endangered, or who shall loiter or make delay in the transmission or delivery of any message, shall be liable to imprisonment, with or without hard labor, for a term not exceeding three months, or to a fine not exceeding one hundred Rupees, or to both.

Penalties for sending messages without payment to Government.

XIV. Whoever, being in such employ, shall transmit by the Electric Telegraph any message upon which the prescribed charge has not been paid, intending thereby to defraud the Government,

shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Penalties for sending fabricated message.

XV. Whoever shall transmit or cause to be transmitted by an Electric Telegraph established by Government a message which he knows to be false or fabricated, shall be liable to be imprisoned, with or without hard labor, for a term not exceeding two years, or to fine, or to both.

Jurisdiction beyond local limits of Supreme Court.

XVI. Any person not being a European British subject, who shall beyond the local limits of the jurisdiction of a Court of Judicature established by Royal Charter, commit any of the offences mentioned in Sections X, XI, XII, XIII, XIV, and XV. of this Act, shall be punishable upon conviction by any Magistrate within whose jurisdiction the offence shall be committed. If any such offence be committed beyond the said local limits by a European British subject, the offender shall be punishable upon conviction before a Court of Judicature established by Royal Charter.

Jurisdiction within local limits of Supreme Court.

XVII. Any person, whether a European British subject or not, who shall within the local limits of the jurisdiction of a Court of Judicature established by Royal Charter commit any of the offences referred to in the last preceding Section, shall be punishable upon conviction before such Court.

Fines how to be adjudged.

XVIII. Any person, whether a European British subject or not, who shall be guilty of any offence, for which, according to the provisions of this Act, he shall be liable to a fine only, shall be punishable for such offence by any Magistrate of Police for any of the Presidency Towns of Calcutta, Madras, and Bombay, or for the Settlement of Prince of Wales' Island, Singapore, and Malacca, Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, within whose jurisdiction the offence shall be committed; and any person hereby made punishable by a Magistrate of Police, shall be punishable upon summary conviction.

Fines how levied.

XIX. All fines imposed under the authority of this Act, for offences punishable by fine only, by any Police Magistrate, Magistrate, Joint-Magistrate, or person lawfully exercising the powers of a Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender, by warrant under the hand

of any of the above-named Officers, and in case any such fine shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless such party shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress, and such Officer may take such security by way of recognizance or otherwise, and if, upon the return of such warrant, it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the party or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer, by warrant under his hand, may commit the offender to prison, there to be imprisoned only or to be imprisoned and kept to hard labor, according to the discretion of such Officer, for any term not exceeding two calendar months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Imprisonment if not sufficient distress, &c.

XX. If any Servant of the Government, employed in the Electric Telegraph Department within the dominions of any Foreign Prince or State in alliance with the Government of India in which an Electric Telegraph is established by the Government, shall within the dominions of such Prince or State commit any act hereby prohibited or omit to do any act hereby required to be done by any person similarly employed within the British territories in India, such Servant of the Government shall be guilty of an offence, and on conviction thereof shall be punished in the same manner as if such act had been done or omitted within the said last mentioned territories; and every such person may be tried, convicted, and punished either by fine or otherwise, according to the nature of the offence, by any Court or Officer duly empowered by the Governor-General of India in

Authority to punish Government Servants who commit offences against this Act in Foreign territory.

Council to take cognizance of offences committed in such dominions by Servants of the Government, or by any Court or Magistrate or other competent Officer in any part of the British territories in India in the same manner as if the offence had been committed in such part of the said territories.

Explanation of terms.

XXI. The word "Magistrate" in this Act shall include Joint Magistrates and persons lawfully exercising the powers of Magistrates, and the word "Fine" shall include a penalty or forfeiture.

Government to frame rules for Telegraphs established by license.

XXII. It shall be lawful for the Governor-General in Council to frame rules for the conduct of any Electric Telegraph established by license under this Act, and to declare from time to time what portions of this Act shall be applicable to such Telegraph and to persons using the same, or employed in connexion therewith. It shall also be lawful for the Governor-General in Council to declare from time to time that this Act, or such portions thereof as may be specified, shall be applicable to any Electric Telegraph established or to be established within the British Territories in India by any Foreign Prince or State with the consent of the British Government, and to persons using such Telegraph or employed in connexion therewith.

And to declare Act applicable to Telegraphs established within British Territories by Foreign Powers.

EMPLOYERS AND WORKMEN.

ACT No. IX. OF 1860.

[*Passed on the 12th March*, 1860.

Recites expediency of providing for speedy determination of disputes between workmen and their employers on Railways and other public works.

1, 2, 3, 4, 5. Empowers local Governments to give Magistrates jurisdiction to decide disputes on account of wages, hire of carriage and price of work between workmen on Railways and public works and their employers, (2) up to 200 Rs. within six months; and (3) within specified local limits; and (4) to proceed according to Civil Procedure rules of Act VIII. 1859; and (5) without appeal.

6, 7. Magistrate may order payment of what is due and levy amount by distress and sale of goods; and (7) decide if question arises as to liability of goods, under rules of Act VIII. 1859.

8. Workmen under voluntary engagement for certain period or for specified work on any Railway, &c. neglecting or refusing to perform the work, to be

liable to fine or to order for specific performance by himself or another and in default to imprisonment.

9. Act to apply only where extended by orders of local or general government.

An Act to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers.

Preamble.

Whereas it is expedient to make provision for the speedy determination of certain disputes between workmen engaged in Railway and other public works and their employers: It is enacted as follows:—

Government may empower any Magistrate to decide disputes as to wages or price of work.

I. It shall be lawful for the Executive Government of any Presidency or place within the British Territories in India to invest any Magistrate or other Officer exercising the powers of a Magistrate with power to enquire into and decide disputes on account of wages, hire of carriage, or the price of work, between any workmen employed in the construction of any Railway, Canal, or other public work, the construction of which is or shall be sanctioned by Parliament or by any such Executive Government, and the person or persons by whom such workmen are employed.

Magistrates to have Jurisdiction in what cases.

II Magistrates empowered to decide disputes under the preceding Section shall have jurisdiction only in case the amount in dispute shall not exceed the sum of two hundred Rupees, and the claim is preferred within six months from the date on which the cause of action arose.

Government to fix and alter local limits of jurisdiction.

III. The Executive Government shall fix, and may, from time to time, alter the local limits of the jurisdiction of any Magistrate invested with jurisdiction under Section I. of this Act. A Magistrate so invested may hold a Court for the investigation of disputes of the nature described in the said Section, at any place within the local limits of his jurisdiction.

Procedure in the investigation of disputes.

IV. The rules for the institution of suits as provided in Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) shall, as far as circumstances will allow, be followed in the investigation of disputes under the preceding

Sections, and the procedure adopted shall be that provided for cases in which the suit may be disposed of at the first hearing.

No appeal.

V. There shall be no appeal against any decision passed under this Act.

Order for payment.

VI. The Magistrate having heard and decided the case, shall make an order for the payment of such sum of money (if any) as shall appear to him to be justly due: and if the person ordered to pay shall make default in the payment of such sum immediately or within such time as the Magistrate shall direct, the Magistrate shall issue his warrant to levy the money by distress and sale of the goods and chattels of the defaulter.

Distress.

Property distrained.

VII. If any question shall arise whether any goods or chattels seized under the warrant of distress belong to the defaulter, or are liable to be distrained and sold as aforesaid, the same shall be determined in the manner provided by the said Act VIII. of 1859 for the determination of the like questions arising in the execution of decrees.

Penalty for workmen neglecting or refusing to work.

VIII. Any person who shall voluntarily engage for a stipulated period to work on any Railway, Canal, or other public work, the construction of which is or shall be sanctioned in the manner specified in Section I. of this Act, or to execute any specific work in connection with such public work, and who shall wilfully and without lawful or reasonable excuse neglect or refuse to perform the work so stipulated for, shall be liable, on conviction before a Magistrate, to a fine not exceeding twenty Rupees. The Magistrate may, at the request of the complainant or of any one authorized to act on his behalf, instead of fining such person, order him to perform or get performed the work according to the terms of his contract or engagement; and if he shall fail to comply with the order, the Magistrate may, upon proof to his satisfaction of such non-compliance, sentence such person to be imprisoned with or without hard labor for any term not exceeding two months.

Operation of Act.

IX. This Act shall take effect only in those districts or places to which it shall be extended by order of the Governor General of India in Council, or of the Executive Government of any Presidency or place.

CUSTOMS DUTIES.

ACT No. X. OF 1860.

[*Received assent of the G. G. on the 12th March,* 1860.

Recites expediency of altering the Customs Duties.

1. From 18th Feb. 1860 Customs Duties under Acts VII. and XXIII. 1859 to cease and to be levied according to Schedules A & B of this Act; Duties on salt and opium under former Act excepted; exemption of Free Ports to continue.

2. Exempts from operation of this Act Cotton Twist and Yarn arrived before 18th February or shipped before 18th February and sold at a price including the old duty.

3. Collector to decide, subject to appeal to government, all questions under Customs Act in which the revenue is concerned.

4. Bonded goods to be liable to new duties.

Schedules A of Import Duties; B of Export Duties.

An Act to amend Act VII. of 1859 (to alter the Duties of Customs on goods imported or exported by Sea.)

Preamble.

Whereas it is expedient to amend the law relating to Customs Duties; it is enacted as follows:—

Customs Duties to be levied as prescribed in the Schedules annexed to this Act.

I. From and after the 18th day of February 1860, in lieu of the Customs Duties authorized to be charged in Acts VII. of 1859 *(to alter the Duties of Customs on goods imported or exported by sea)* and XXIII. of 1859 *(to alter the rates of duty on goods imported or exported by land from certain Foreign Territories into or from the Presidencies of Madras and Bombay respectively)* there shall be levied and collected the Duties as contained in the two Schedules A and B annexed to this Act; provided always that nothing herein contained shall be deemed to alter the existing Duties upon Salt and Opium or to authorize the levy of Duties in any free Port, or to affect the provisions of Acts VI. of 1848 *(for equalizing the Duties on goods imported and exported on Foreign and British bottoms and for abolishing duties on goods carried from Port to Port in the Territories subject to the Government of the East India Company)* and VII. of 1848 *(to except certain free Ports from the operation of Section III. Act No. VI. of* 1848, *and otherwise to amend that Act).*

Proviso.

Duty on Cotton Twist or Yarn sold or contracted to be delivered in India duty-paid before 18th February 1860.

II. In case it shall be proved to the satisfaction of the Collector of Customs Duties that in respect to any Cotton Twist or Yarn which on the said 18th day of February had arrived in any Port in British India but upon which the Duty of Customs had not been paid, or which had on or before that date been shipped on board any Vessel in a Foreign Port and which had sailed for a Port in British India, the said Cotton Twist or Yarn had before the said 18th day of February been sold or contracted to be delivered at a price including the duty payable in India, then in every such case such Cotton Twist or Yarn shall be admitted at a Duty of five per centum upon the value thereof.

Disputes in matters concerning the Revenue by whom to be settled.

III. If in a matter concerning the Revenue any dispute shall arise in respect to the construction of this Act or of any Act relating to Customs Duties or in respect to any other matter whatever relating to the importation or exportation of goods or merchandize, or relating to the levy or collection of the Duties thereon, the Collector or other chief Revenue authority of the Port at which the same may take place shall settle the same, subject however to an appeal to the Government of India in the Revenue Department.

Goods in bond to be treated as new importations.

IV. Whereas doubts have existed as to the conditions upon which goods or merchandize are bonded in any Port of India, in respect to the liability of such goods or merchandize to be charged with any new rate of Duty that may be imposed while yet such goods or merchandize remain in bond, be it enacted that all goods and merchandize being bonded in any Port in India shall, in the event of any change of Duties taking place, be considered in every respect in relation thereto as if they were new importations.

SCHEDULE A.

Rates of Duty to be charged on the following goods imported by Sea into any Port of India not being a free Port.

1.	Bullion and Coin	Free.
2.	Precious Stones and Pearls	"
3.	Grain and Pulse	"

4.	Horses and other living Animals	Free.
5.	Ice	,,
6.	Coal, Coke, Bricks, Chalk, and Stones	,,
7.	Cotton Wool	,,
8.	Wool	,,
9.	Flax	,,
10.	Hemp	,,
11.	Jute	,,
12.	Hides and Skins, Raw	,,
13.	Books	,,
14.	Maps, Prints, and Works of Art	,,
15.	Seeds when imported by any Public Society for gratuitous distribution	,,
16.	Agricultural implements	,,
17.	Machinery of all kinds	,,

And the Collector of Customs, subject to the general orders of the Government of India in the Revenue Department, shall decide what articles come within the definition of Machinery, and such decision shall be final in law.

18.	Conveyances and carriages of every description ...	Free.
19.	Military and other Regulation Uniforms and Accoutrements when imported for private use by persons in the Public Service	,,
20.	Guano and manures of all kinds	,,
21.	Porter, Ale, Beer, Cider, and other similar fermented Liquors	4 annas the imperial gallon.
22.	Wines and Liqueurs	2 Rupees the imperial gallon.
23.	Spirits	3 Rupees the imperial gallon. And the duty to be rateably increased as the strength exceeds London Proof.
24.	Tobacco, unmanufactured ...	8 annas a seer of 80 tolahs' wt.
25.	Tobacco manufactured ...	1 Re. a seer of 80 tolahs' wt.
26.	All articles not included in the above enumeration ...	10 per cent. *ad valorem*.

SCHEDULE B.

Rates of Duty to be charged upon goods exported by Sea from any Port in India not being a free Port.

1.	Bullion and Coin	Free.

2.	Precious Stones and Pearls	Free.
3.	Horses and other living animals	,,
4.	Sugar and Rum	,,
5.	Spirits	,,
6.	Tobacco, and all preparations thereof	,,
7.	Tea	,,
8.	Coffee	,,
9.	Raw Silk	,,
10.	Cotton Wool	,,
11.	Wool	,,
12.	Flax	,,
13.	Hemp	,,
14.	Jute	,,
15.	Hides and Skins, Raw	,,
16.	Books	,,
17.	Maps, Prints, and Works of Art	,,
18.	Teak Timber exported from the Arracan, Pegu, Martaban, and Tenasserim Provinces	,,
19.	Grain and Pulse of all sorts ...	2 Annas the Indian Maund.
20.	Saltpetre	2 Rupees the Indian Maund.
21.	Indigo	3 Rupees the Indian Maund.
22.	Lac Dye and Shell Lac... ...	4 per cent. *ad valorem.*
23.	All country articles not enumerated or named above	3 per cent. *ad valorem.*

INDIGO CONTRACTS AND COMMISSION OF ENQUIRY.

ACT No. XI. OF 1860.

[*Received assent of the G. G. on the 9th April*, 1860.

Recites expediency of issuing a commission of enquiry and providing temporarily a summary process for enforcement of contracts for cultivation of Indigo.

1, 2. Ryot having received a cash advance for cultivation of indigo during now current Season, and not cultivating according to agreement may be summoned before Magistrate; who (2) if the complaint is established may assess damages, and order payment or specific performance of contract, and may attach the land to be cultivated, if set out by the contract; and ryot on default of obedience to order may be imprisoned, and damages may be levied on his property.

3, 4. Complaint to be dismissed, if agreement not obtained by fraud, force

or intimidation: and (4) on dismissal for any cause Magistrate may order complainant to pay costs and compensation.

5. Any person by violence, threats or otherwise intimidating a ryot to break his engagement shall be liable to imprisonment or fine or both.

6. Any person maliciously destroying or damaging or commanding, &c. another to destroy, &c. any growing crop of indigo, shall be liable to imprisonment or fine or both.

7. No appeal to lie from decision of Magistrate.

8. Persons vested with powers of Magistrate and Assistant and Deputies specially empowered by Government may exercise powers under this Act.

9 Decision of Magistrate to be a bar: and to have force only in regard to things of current season.

10 Act to have effect from 4th April, and only within territories of Lieut. G. of Bengal. Complaints under it to be preferred in 6 months.

11. Legalizes retrospectively as under the Act all acts done before 4th April which would be justified under it.

12, 13 Directs Lieut G. of B. to issue a Commission to inquire and report on the system of indigo planting and the relations of planter and ryot; and (13) empowers him to fill up vacancies in Commission.

14, 15, 16. Empowers Commissioners to summon witnesses with or without books, &c; and (15) to administer oath; and (16) gives them the same powers as Civil Courts to punish defaults of witnesses.

17. Empowers Commissioners to order costs of witnesses to be paid by Collector.

18. Makes false evidence punishable as perjury.

An Act to enforce the fulfilment of Indigo Contracts, and to provide for the appointment of a Commission of Enquiry.

Preamble.

Whereas it is expedient to issue a commission of enquiry into the practice of Indigo planting in Bengal and the relations between the Indigo Planter and the Ryots and holders of land in Bengal, and to make temporary provision for enforcing by summary process the execution of agreements entered into for the cultivation of Indigo plant; and better to provide for the punishment of certain unlawful acts connected with such cultivation: It is enacted as follows:—

Magistrate may on complaint, issue summons for appearance of a person who has received a cash advance and delays or neglects to fulfil his agreement.

I. If any person who has received a cash advance upon his agreement to cultivate Indigo plant during the season now current, shall wilfully delay or omit from and after the 4th day of April 1860, to cultivate according to the conditions of such agreement the whole quantity of land which

he has agreed to cultivate, or otherwise to fulfil his engagement, it shall be competent to the Magistrate to entertain a complaint made to the above effect on oath by the Planter who has made the advance, or by any person on his behalf, and to summon the person complained of to appear before him in order to the investigation of the complaint preferred. If the Magistrate has reason to believe that the person complained of will not appear in obedience to the summons, he may issue a warrant for the arrest of such person.

Remedy.

II. On hearing the answer of the person complained of, and on taking such evidence as both parties may adduce, if the complaint be established to the satisfaction of the Magistrate, the Magistrate shall assess a certain sum as damages sustained by reason of the breach of the contract. If it shall appear to the Magistrate that the person who has agreed to cultivate the Indigo plant is still able to perform his contract, the Magistrate shall order him specifically to perform the same, and shall also in such case award a certain sum to be paid as damages as an alternative. In cases in which the land to be cultivated with the Indigo plant is defined by the agreement, the Magistrate may order the attachment, as a security for the amount of the damages assessed or to be assessed for the breach of the agreement, of any other crop of the defaulter that may at any time during the present season be growing on such land. If after an order for specific performance of agreement the defendant fail to perform the agreement or to pay the amount of damages ordered to be paid as an alternative, or if after an order for payment of damages the same be not immediately paid, the Magistrate may order the defendant to be imprisoned in the Civil Jail for a term not exceeding three months; and may on the motion of the complainant furthermore proceed to levy the damages assessed from the property of the defendant, in the mode provided for enforcing decrees of Court under Act VIII. of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)*

Proviso.

provided that if the amount of the said damages is paid or levied within the aforesaid term of three months, the defendant shall be released from Jail on that amount being paid or levied.

III. In case it shall appear to the satisfaction of the Magistrate that the agreement has been obtained by means of fraud, force, or unlawful intimidation, the complaint shall be dismissed.

If agreement obtained by force or intimidation, complaint to be dismissed.

IV. If any complaint preferred under this Act be dismissed for want of proof or appearance of the complainant, or for any other cause, the Magistrate may order the complainant to pay such amount for costs and compensation as he may think reasonable. In default of payment of any such amount, the same may be levied by distress and sale of the property of the person ordered to pay the same.

In what cases Magistrate may levy costs and compensation from complainant.

V. If any person from and after the 4th day of April 1860, shall by violence, threats, or otherwise intimidate or attempt to intimidate any other person who shall have entered into any such agreement as aforesaid, with the intention of inducing such person to break the conditions thereof, he shall, on conviction before a Magistrate, be liable to a sentence of imprisonment with or without labor for a period not exceeding six months, or to a fine not exceeding two hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding six months.

Penalty for intimidation, &c.

VI. If any person shall maliciously destroy or damage, or if any person shall maliciously command, compel, or persuade any other person to destroy or damage any growing crop of Indigo, he shall, on conviction before a Magistrate, be liable to be sentenced to imprisonment with or without labor for a period not exceeding six months, or to a fine not exceeding two hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding six months.

Penalty for destroying or damaging crops.

VII. No Appeal shall lie from the decision of a Magistrate under this Act.

No Appeal.

VIII. The power of a Magistrate under this Act may be exercised by any person vested with the full powers of a Magistrate, and by any Assistant Magistrate or Deputy Magistrate specially empowered on that behalf by the local Government.

Jurisdiction.

IX. A decision of a Magistrate shall be a bar to any further

Effect of decision of Magistrate under this Act.

proceeding for the same breach of agreement. No decision under this Act shall have any force or effect in regard to anything not to be performed during the current season.

Duration and territorial scope of Act.

Limitation of Action.

X. This Act shall have effect from and after the 4th day of April 1860, and shall not extend beyond the Territories subject to the Lieutenant-Governor of Bengal. And no complaint or prosecution shall be entertained under this Act, unless preferred within six months from the date aforesaid.

Certain post orders declared valid.

Indemnity.

XI. All orders made or acts done before the 4th day of April 1860, which would have been lawful if the Bill "to enforce the fulfilment of Indigo Contracts" as read a second time on the 24th day of March 1860 had then become law, are hereby declared to be valid. And all Magistrates and other Public Officers are hereby indemnified for any acts done before the said 4th day of April 1860, which would have been justifiable under the said Bill if the same had become law on the said 24th day of March 1860.

Appointment of commission of enquiry.

XII. The Lieutenant-Governor of Bengal shall, as soon as conveniently may be, issue a commission to such persons as the said Lieutenant-Governor shall think fit, for the purpose of enquiring into and reporting on the system and practice of Indigo planting in Bengal and the relations between the Indigo Planter and the Ryots and holders of land in Bengal aforesaid. The said Commissioners shall fully enquire into the matters aforesaid, and shall, as soon as they conveniently can, report to the Lieutenant-Governor the result of their enquiries, and shall in their report or reports suggest such alterations, if any, as may in their opinion be beneficially made in the law relating to the system and practice and the relations aforesaid.

Death or resignation of any of the Commissioners.

XIII. In case of the death or resignation of any of the said Commissioners, or of any of them becoming unable or refusing to act, it shall be lawful for the other Commissioners, or Commissioner to act alone, and all the powers by this Act given to Commissioners shall and may be exercised by the continuing Commissioners or Commissioner alone, but only until such vacancy can be filled up.

It shall be lawful for the said Lieutenant-Governor from time to time, and he shall as soon as conveniently may be, without issuing a new Commission, appoint some other person or persons to act as a Commissioner or Commissioners jointly with the continuing Commissioners or Commissioner, and in such case all the powers conferred by this Act shall and may be exercised by the said newly appointed Commissioner or Commissioners jointly with the continuing Commissioner or Commissioners.

Attendance of witnesses.

XIV. It shall be lawful for the Commissioners aforesaid, by a summons under the hand of any one of them, to require the attendance before them, at a time and place to be mentioned in such summons, of any person or persons whomsoever, residing or being within the Lieutenant-Governorship of Bengal, whose evidence shall in the judgment of the Commissioners aforesaid be material to any of the matters of the enquiry aforesaid, and to require the person or persons so summoned to bring and produce before them all such books, papers, deeds, and writings as to them the said Commissioners shall appear necessary for arriving at the truth of the matters directed to be enquired into by the said Commissioners, all which persons shall accordingly attend before the said Commissioners, and shall produce such books, papers, deeds, and writings as shall be required of them and shall be in their custody and control or in the custody and control of any one of them according to the tenor of the summons. Provided always that no person shall be compelled to attend before the said Commissioners or to give his evidence at a greater distance than fifty miles from the place where such person shall be residing.

Proviso.

Examination of witnesses on oath or affirmation.

XV. It shall be lawful for the Commissioners aforesaid, or one of them, to administer an oath, or in the case of persons allowed by law to make affirmation instead of taking an oath, an affirmation in such form as to them the said Commissioners shall seem fit, to all persons who shall be examined before them touching the matters to be enquired into by them as aforesaid. Provided that nothing herein contained shall render it necessary for the said Commissioners to take evidence upon oath or affirmation unless they shall think fit or expedient so to do.

Proviso.

Witnesses neglecting to attend, &c.

XVI. If any person, upon whom any such summons shall be served by the delivery thereof to him or by the leaving thereof at his usual place of abode, being a person living within fifty miles of the place at which he shall be required to attend, without reasonable cause (to be allowed by the Commissioners aforesaid) fail to appear before them at the time and place mentioned in the summons, or shall refuse to be sworn or to make affirmation (as the case may be) or shall not make answer to such questions as shall be put to him touching the matters directed, or which may hereafter be directed, to be enquired into by the Commissioners aforesaid, or shall refuse or fail without reasonable cause (to be allowed by the Commissioners aforesaid) to produce and show to the said Commissioners any such paper, book, deed, or writing being in his possession or under his control as to the Commissioners aforesaid shall appear necessary for arriving at the truth of the matters to be enquired into by them, the Commissioners aforesaid shall have the same powers in all respects touching any such person so failing to appear or refusing to be sworn or to make affirmation, or not answering such questions as shall be put to him or refusing to produce and show any such book, paper, deed, or writing as aforesaid, as the principal Court of original Civil jurisdiction within the limits of which the said person shall be residing, may by law exercise against any person for making default of appearance, or for refusing to be sworn or to give evidence on any issue joined in any action depending in such Court.

Expenses of witnesses.

XVII. Whenever a summons is issued for the attendance of a witness under this Act, the Commissioners may if they think fit order such witness to receive from the Collector such travelling and other expenses as he would have been entitled to receive had he been summoned to appear and give evidence in the principal Court of original Civil jurisdiction in the District.

Punishment for false evidence.

XVIII. Every person who, upon examination upon oath or affirmation before the Commissioners aforesaid, shall wilfully give false evidence, shall be liable to the punishment of perjury.

EMIGRATION TO SAINT VINCENT.

ACT No. XII. OF 1860.

[*Received assent of the G. G. on the 26th April,* 1860.

Recites expediency of legalizing emigration of coolies to Saint Vincent.

1. Repeals Act XIV. 1839, as respects emigration to Saint Vincent.

2, 3 Extends Act XXXI. 1855 to emigration of coolies to Saint Vincent, so soon as (3) notification is made in Gazette that the required measures have been taken for the protection of emigrants.

An Act relating to the Emigration of Native Laborers to the British Colony of Saint Vincent.

Preamble.

Whereas it is expedient to render lawful the emigration of laborers, being Native Inhabitants of British India, to the British Colony of Saint Vincent, and to extend the provisions of Act XXXI. of 1855 (*relating to the emigration of Native laborers to the British Colonies of Saint Lucia and Grenada)* to the emigration of Native Inhabitants of British India who may emigrate to Saint Vincent: It is enacted as follows :—

Act repealed.

I. Act XIV. of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the British Colony of Saint Vincent, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, to the said Colony is repealed.

Act XXXI. of 1855 extended.

II. All the provisions of Act XXXI. of 1855, and of the Schedule thereto, shall extend and apply to Native Inhabitants of the British Territories in India who shall emigrate to Saint Vincent, and that Act shall be read as if the words "or the British Colony of Saint Vincent" had been inserted therein after the words "Saint Lucia and Grenada," or "Saint Lucia or Grenada," wherever those words occur in the said Act.

Commencement of Act.

III. This Act shall take effect as to the said Colony of Saint Vincent from the day when the Governor General of India in Council shall notify in the Calcutta Gazette that such Regulations have been provided and such measures taken as the Governor General in Council

deems necessary for the protection of such emigrants during their residence in the said Colony of Saint Vincent and in respect of their return to India.

FURRUCKABAD. ZILLAH COURT.

ACT No. XIII. OF 1860,

[*Received assent of the G. G. on the 26th April,* 1860.

Repeals B. R. II. 1803 s. 8 and Act XII. 1836.

An Act to repeal certain Laws relating to the jurisdiction of the Zillah Court of Furruckabad.

Preamble.

Whereas it is expedient to repeal certain Laws relating to the jurisdiction of the Zillah Court of Furruckabad: It is enacted as follows:—

Laws Repealed.

I. Section VIII. of Regulation II. 1803 of the Bengal Code (*enacting a rule for the guidance of the Zillah Court of Furruckabad, with reference to complaints preferred against any of the dependants of the Nawab of Furruckabad*) and Act XII. of 1836 (*relating to the execution by the said Court of certain decrees passed by the Nawab under the provisions of the said Regulation*) are hereby repealed.

KING OF OUDE.

ACT No. XIV. OF 1860.

[*Received assent of the G. G. on the 26th April,* 1860.

1. Civil Process required to be served within the premises occupied by King of Oude to be transmitted to the Government Agent for service.

2. Criminal process to be transmitted in like manner at the option of the Court by whom it is issued.

3. Certificate of Agent as to service of process to be received *primâ facie* as true without proof.

4. G. G. in C. to define for the purposes of this Act the limits of the King of Oude's premises.

An Act to provide for the execution of process within the premises occupied by His Majesty the king of Oude.

Preamble.

Whereas it is expedient to make provision for the execution of process within the premises occupied by His Majesty the King of Oude: It is enacted as follows:

Execution of Civil process.

I. When any process, issued by any Civil Court, Collector, or other Revenue Officer in Her Mejesty's East Indian Territories, is required to be served or executed within the premises occupied by the King of Oude, such process shall be transmitted to the Officer appointed to be Agent with His Majesty on the part of the British Government, and such Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon.

Execution of Criminal Process.

II. When any process issued by any Criminal Court, Justice of the Peace, Magistrate, or Officer exercising the powers or any of the powers of a Magistrate in Her Majesty's East Indian Territories, is required to be served or executed within the premises occupied by the King of Oude, such process may, at the discretion of the Court or Officer issuing the same, be transmitted to the Officer who shall have been appointed Agent with His Majesty on the part of the British Government, and in such case such Officer shall cause such process to be served or executed according to the exigency thereof, and shall return the same with a certificate of what shall have been done thereon.

Proof of execution.

III. Every certificate returned by the Agent with His Majesty under this Act, shall in all cases be admitted as *primâ facie* proof of the truth of the matter stated therein.

Limits of residence how to be defined.

IV. It shall be lawful for the Governor General in Council to define, for the purposes of this Act, by notification in the Calcutta Gazette, the limits of the premises occupied by the King of Oude, and from time to time in like manner to alter such limits.

CALCUTTA CANALS.

ACT No. XV. OF 1860.

[*Received assent of the G. G. on the 26th April,* 1860.

Recites expediency of opening for traffic a new canal.

1, 2 Defines the line of the new canal and extends Act XXII. 1836 to it.

An Act to amend and extend Act XXII. of 1836 (relating to the levy of a Toll on Boats, Rafts, and Floats passing through the Circular and Eastern Canals).

Preamble.

Whereas it has been found necessary to open for traffic a new Canal leading from the late Toll House at Dhappa to Ooltadanga, and it is expedient that a Toll should be levied on Boats, Rafts, and Floats passing through the said Canal: It is enacted as follows:—

New line of Canal made subject to Section II. Act XXII. of 1836.

I. The following line of navigation, from the date of the passing of this Act, shall be subject to the provisions of Section II. Act XXII. of 1836, in like manner as is enacted with respect to the two lines of navigation therein described (that is to say)—

The line of Canal running North from the late Toll House at Dhappa to Ooltadanga where it joins the Circular Canal.

Act to be construed as part of Act XXII. of 1836.

II. This Act shall be construed as part of the said Act XXII. of 1836.

PRESIDENCY TOWNS.—MUNICIPAL.

ACT No. XVI. OF 1860.

[*Received assent of the G. G. on the 26th April,* 1860.

1. Repeals Act XIV. 1856 s. 121.

2. Bye-Law of Municipal Commissioners to cease after disallowance by local government.

3. Disallowance of Bye-Law to be published in Government Gazette.

An Act to amend Act XIV. of 1856.

Preamble.

Whereas it is enacted by Section CXXI. of Act XIV. of 1856 *(for the conservancy and improvement of the Towns of Calcutta, Madras, and Bombay, and the several stations of the Settlement of Prince of Wales' Island,*

Singapore, and Malacca) that certain Bye-laws made by the Municipal Commissioners shall be transmitted to the Clerk of the Legislative Council as soon as conveniently may be after the confirmation thereof, and that no such Bye-law shall have effect if disallowed by order of the Legislative Council; and whereas doubts have arisen whether the Legislative Council can legally disallow any such Bye-laws by an order, or in any other manner than by a law or Regulation, and it is expedient to avoid such doubts and to make other provision for disallowing such Bye-laws: It is enacted as follows:—

Section repealed.

I. Section CXXI. of the said Act XIV. of 1856 is hereby repealed.

Disallowance of Bye-laws by the local Government.

II. No Bye-law made under the provisions of the said Act, though confirmed by the local Government, shall continue in force after it shall have been disallowed by the local Government, except as to an act done or a breach of such Bye-law committed before the disallowance thereof.

Publication of disallowance.

III. Every disallowance of such a Bye-law shall be published in the Government Gazette, or in one or more of the public newspapers; and all Courts and Magistrates shall take judicial notice of such disallowance.

ESCAPED CONVICTS.

ACT No. XVII. OF 1860.

[*Received assent of the G. G. on the 26th April,* 1860.

Recites expediency of repealing Act V. 1858.

1. Repeals Act V. 1858.

2. Empowers the local Governments to declare the limit of time within which escaped convicts guilty of specified offences in specified districts ought to have surrendered themselves.

3. Escaped convicts who have not surrendered within the specified time may be sentenced to transportation for life or not less than 5 years or to imprisonment, &c. Magistrate may pass sentence under this Act beyond the ordinary limits of his power.

4. Legalizes all sentences already passed under Act V. 1858.

5. Exempts from this Act escaped convicts already re-committed.

6. Limits s. 2 of this Act to convicts for specified crimes, viz. rebellion, &c.

7. Persons harbouring or concealing, &c. convicts to be liable to imprisonment, &c.

8. Makes proprietors and farmers of lands responsible for giving intelligence to Magistrates, &c. of the resort of convicts to places on their estates.

9. Empowers Magistrates to pardon minor offenders on condition of giving information of escaped convicts under this Act.

10. Offences under this Act may be tried by Sessions Judge or special Commissioner from whom there is to be no appeal.

11. Convicts escaped from prison may be transported by order of local government.

An Act to repeal Act V. of 1858 (for the punishment of certain Offenders who have escaped from Jail, and of persons who shall knowingly harbour such Offenders), and to make certain provisions in lieu thereof.

Preamble.

Whereas it is expedient to repeal Act V. of 1858 *(for the punishment of certain Offenders who have escaped from Jail, and of persons who shall knowingly harbour such Offenders)*, and to make certain provisions in lieu thereof: It is enacted as follows:—

Act V. of 1858 repealed.

I. Act V. of 1858 is repealed except as to any sentences passed under that Act.

Time for the surrender of certain escaped offenders.

II. It shall be competent to the Executive Government of any Presidency or place to declare by an order, as regards any or all of the Districts under such Government, the time within which the persons, who within such District or Districts shall, between the first of May 1857 and the time so declared, have escaped from Jail or other lawful custody whilst detained under sentence of imprisonment for any of the crimes hereinafter mentioned, could and ought to have surrendered themselves to a Magistrate or Police Officer; and no such person who shall have so surrendered himself within the period fixed as aforesaid, shall be liable to be prosecuted under this Act.

Punishment for not surrendering within the time aforesaid.

III. Every person who, whilst detained as aforesaid, shall have escaped from Jail or other lawful custody during the period mentioned in the last preceding Section, and who shall not have surrendered himself within the time declared by the Executive Government as aforesaid, may be sentenced to transportation for life

or for any shorter period not being less than five years, or to imprisonment with or without hard labor in irons for any period not exceeding three years, in addition to any unexpired term of his original sentence. In any case falling within the provisions of this Section in which the Magistrate shall be of opinion that in addition to the unexpired term of the offender's original sentence, a more severe sentence than that which such Magistrate is by any law for the time being in force empowered to pass is not called for, it shall not be necessary for the Magistrate to order the commitment of the offender to the Sessions Court, but he may himself pass sentence to the extent of his powers and proceed to carry the sentence into execution.

In what cases Magistrate may pass sentence without commitment to Sessions Court.

IV. All sentences already passed in cases falling within the provisions of Act V. of 1858, shall be deemed valid, any thing in the said Act to the contrary notwithstanding.

Sentences under Act V of 1858, to be deemed valid.

V. If any person subject to the penalty prescribed in Section I. Act V. of 1859, shall, before the passing of this Act, have been remanded to Jail under the order of a Magistrate to undergo the portion of his sentence remaining unexpired at the date of his escape from Jail or other lawful custody, such person shall not be liable to be prosecuted under this Act.

Certain escaped offenders, remanded to Jail, not liable to be prosecuted under this Act.

VI. The following are the crimes referred to in Section II. namely rebellion, mutiny, desertion, murder, attempts to murder, thuggee, dacoity, robbery, belonging or having belonged to a gang of thugs or to a gang of dacoits or to a wandering gang associated for the purposes of theft or robbery.

Enumeration of crimes referred to in Section II.

VII. Whoever shall knowingly harbour or conceal, or assist in harbouring or concealing, any such convict who shall have escaped as aforesaid and shall not have surrendered within the period provided in Section II. of this Act, shall be liable to imprisonment with or without hard labor for any term not exceeding seven years, and shall also be liable to fine.

Punishment for knowingly harbouring or concealing offenders.

VIII. All proprietors of lands, and all farmers, agents, and

Liability of landholders to give early intelligence of the resort of escaped prisoners to their estates.

other persons having the charge or management of lands, are hereby declared accountable for the early communication to the Magistrates and Police Officers of intelligence of the resort, to any place within the limits of the lands held or managed by them, of any person in respect of whom there shall be reasonable suspicion of his being such convict who has escaped as aforesaid; and every proprietor or other person as aforesaid who shall neglect to give such intelligence, shall be liable, on conviction before a Magistrate, to imprisonment for a term not exceeding six months, and to fine not exceeding two hundred Rupees, commutable, if not paid, to imprisonment for a further term not exceeding six months.

Magistrates &c. authorized to tender pardon in certain cases.

IX. Any Magistrate or person exercising the full powers of a Magistrate, unless prohibited by order of the Executive Government, is hereby authorized, without reference to any other authority, to tender a pardon to any person who may have escaped from Jail or other lawful custody whilst detained under sentence of imprisonment for any crime or offence other than the crimes above-mentioned, on condition of his giving such information as may lead to the apprehension and conviction of one or more person or persons punishable under this Act. Such pardon may be tendered, as well in respect of the crime or offence for which the offender was detained, as of the offence of escaping from Jail.

Jurisdiction.

X. Offences under this Act, other than those provided for by Section VIII. of this Act, may be tried by a Sessions Judge, or by a Special Commissioner appointed under Act XIV. of 1857.*(to make further provision for the trial and punishment of certain offences relating to the Army and of offences against the State);* and the sentence or judgment shall not be subject to appeal. Provided that nothing contained in this Section shall extend to the trial of a European British subject.

Executive Government may transport in cases where an unexpired sentence, together with the sentence

XI. It shall be competent to the Executive Government of any Presidency or place to direct that any person, who shall be convicted of escaping from Jail or other lawful custody whilst un-

for escaping from Jail, amounts to five years.

dergoing a sentence of imprisonment, shall be transported for the term remaining unexpired of such sentence as well as for any additional term of imprisonment to which such person shall be sentenced for making his escape, provided that the aggregate of both terms shall not be less than five years.

THE GOVERNOR GENERAL.

ACT No. XVIII. OF 1860.

[*Received assent of the G. G. on the 26th April*, 1860.

Continues for 3 months from the 9th May 1860 Act XXI. 1859, for enabling the G. G. to prolong his absence from Calcutta.

An Act to continue in force for a further period of three months Act XXI. of 1859, for providing for the exercise of certain powers by the Governor-General during his absence from his Council.

Preamble.

Whereas the Governor-General has represented that it is expedient that he should be enabled to prolong his absence from Calcutta and that the said Act should be continued for a further period of three months: It is enacted as follows:—

Act XXI. of 1859 continued for three months.

I. Act XXI. of 1859 shall continue in force for the period of three months from the 9th day of May 1860.

MADRAS. PORT DUES.

ACT No. XIX. OF 1860.

[*Received assent of the G. G. on the 1st May*, 1860.

Recites expediency of making Port-dues recoverable in any other port if not paid in port where due.

1. Collector of port where fees become due may, if not paid, send an account to any other port and require Collector there to realize them.

2. Master evading payment of Port-dues to be liable to a penalty, and certificate of Collector to be proof of evasion: leaving port by stress of weather to excuse from the penalty.

3. This Act to be read as part of XXII. 1855.

4. Modifies Act VII. 1858 s. 3. Exempts from Port-dues vessels entering

and departing within 48 hours, and reduces Port-dues by half on vessels remaining only 7 days.

An Act to amend Act XXII. of 1855 (for the regulation of Ports and Port-dues), and Act VII. of 1858 (for the levy of Port-dues at Ports within the Presidency of Fort St. George.)

Preamble

Whereas it is expedient that Port-dues, fees, and charges leviable under Section XLIX. of Act XXII. of 1855, if not paid in the Port in which any such dues, fees, or charges, may under the said Act have become due and payable, shall be recoverable in any Port in British India by the Collector of Customs or other Officer authorized to collect such Port-dues, fees, and charges, in any such Port, and that in certain cases Vessels shall be exempt from such dues, fees, and charges: It is enacted as follows:—

Port-dues, &c. payable in one Port, recoverable by Collector at any other Port.

I. If the Master of any Vessel in respect of which any Port-dues, fees, or charges shall be payable under the said Act, shall cause such Vessel to leave any Port without having discharged such dues, fees, or charges, it shall be lawful for the Collector of Customs or other Officer authorized to collect the same to require in writing the Collector of Customs or other Officer as aforesaid, in any other Port in British India to which such Vessel may proceed or in which she may be, to levy such dues, fees, or charges; and every Collector or other Officer to whom such requisition shall be directed shall proceed to levy such dues, fees, or charges in the manner prescribed in Section XLIX. of the said Act; and a certificate purporting to be made and signed by the Collector of Customs or other Officer as aforesaid of the Port where the Port-dues, fees, or charges became payable, stating the amount so payable, shall be sufficient *prima facie* proof of such amount in any proceeding under the said Section, and also (in case the amount payable is disputed) in any subsequent proceeding under Section LIX. of the said Act.

Penalty for evading payment of Port-dues, &c.

II. If the Master of any such Vessel shall evade the payment of any Port-dues, fees, or charges payable under the said Act, he shall be liable on conviction to a penalty not exceeding five times the amount so payable. In any proceeding before a Magistrate for the adjudication of the said penalty, any such certificate as is

mentioned in Section I. of this Act, stating that the Master has evaded such payment, shall be sufficient *prima facie* proof of the evasion, unless the Master shall show to the satisfaction of the Magistrate that the departure of the Vessel without having discharged the dues, fees, or charges payable was caused by stress of weather or that there was lawful or reasonable ground for such departure.

Construction of Act.

III. This Act shall be read with and taken as a part of the said Act XXII. of 1855, save that any Magistrate having jurisdiction under the said Act in any Port, River, or Channel to which the Vessel may proceed or in which she may be found, shall be deemed to have jurisdiction in any proceeding under this Act.

No Port-due on Vessels leaving any Port mentioned in Act VII. of 1858 within 48 hours without discharging or taking in cargo.

IV. Section III. of Act VII. of 1858 is modified as follows: (that is to say)—

Vessels entering any of the Ports in the Schedule to the said Act mentioned, and departing from such Ports within forty-eight hours without discharging or taking in any cargo or passenger therein, shall not be charged with any Port-due; and Vessels so entering and departing as aforesaid within seven days shall be charged with one half only of the Port-dues leviable under the said Act.

Port-due on Vessels leaving as aforesaid within seven days.

SIR JAMSETJEE JEJEEBHOY.

ACT No. XX. OF 1860.

[*Received assent of the G. G. on the 1st May*, 1860.

Recites the previous sanction of H. M. to the settlement of certain specified estates on the heir of Sir Jamsetjee Jejeebhoy, by Act of the Legislative Council, according to his Will.

1. Constitutes certain Government officers a Corporation and Trustees for the purposes of the settlement.

2. The present Baronet and all future heirs to the title to take the name Sir J. J. in lieu of any other, and that name to descend with the Baronetcy.

3. Company's Paper producing not less than a Lac of Rupees per annum to be transferred to the Trustees incorporate, for the profit of the Baronet present and future, with power to the Baronet on failure of male heirs to assign, &c. the same.

4. In case of minority of the heir to the Baronetcy, the Trustees are to apply the income to his maintenance education and benefit.

5. Settles Mazagon Castle in the same manner as the Company's Paper, subject to alienation on failure of male heirs.

6. Provides for the contingency of the heir male on attaining 21 years of age, refusing to use the name and title, or discontinuing for six months to use it, and directs the suspension of the uses, and declares them in favor of the next heir male of the first Baronet, and in default of heir male, heirs general.

7, 8. Empowers the Baronet for the time being to settle in marriage with one or more an income not exceeding 10,000 Rs. on any one wife or (8) 20,000 Rs. on all together.

9, 10. Mazagon Castle not to be subject to Dower: and (10) all alienations of it void, except on contingency of failure of male heir as provided for in ss. 3 and 5.

11. Provides for contingency of the cessation of the offices to which the corporate functions are attached and empowers the G. in C. to appoint new incorporate Trustees.

12. Gives the Trustees indemnity against losses from specified causes.

13. Saves the rights of H. M., if any, on Mazagon Castle.

An Act for settling Promissory Notes of the Government of India producing an annual income of one lac of Rupees and a Mansion-house and hereditaments called Mazagon Castle, in the Island of Bombay, late the property of Sir Jamsetjee Jejeebhoy, Baronet, deceased, so as to accompany and support the title and dignity of a Baronet lately conferred on him and the heirs male of his body by Her present Majesty Queen Victoria, and for other purposes connected therewith.

Preamble. Patent of Baronetcy.

Whereas by Letters Patent of her Majesty Queen Victoria by the Grace of God of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith, dated at Westminster on or about the sixth day of August, in the Twenty-first year of Her Reign, and by Warrant under the Queen's sign-manual, Her said Majesty made known that she, of her special grace, certain knowledge, and mere motion had erected, appointed, and created Sir Jamsetjee Jejeebhoy, then of Bombay, Knight, but since deceased (a man eminent for family inheritance, estate, and integrity of manners), to and into the dignity, state, and degree of a Baronet, and him, the said Sir Jamsetjee Jejeebhoy for Her Majesty, her heirs, and successors, she did erect, appoint, constitute, and

create a Baronet, by the said Letters Patent, to hold to him and the heirs male of his body lawfully begotten, and to be begotten for ever.

Proposed settlement in support of dignity.

And whereas, in fulfilment of an engagement in that behalf made with Her Majesty's Government, during the life time of the said Sir Jamsetjee Jejeebhoy, deceased, the said Sir Jamsetjee Jejeebhoy was desirous of settling in perpetuity such property on himself and the heirs male of his body who might succeed to the said Baronetcy, as should be adequate to support the dignity of the title conferred on him and them as aforesaid.

Of Mansion and other hereditaments.

And whereas the said Sir Jamsetjee Jejeebhoy was seised of a Mansion-house and hereditaments situate in the Island of Bombay called Mazagon Castle, and had an absolute estate of inheritance therein, and was desirous in fulfilment of the aforesaid engagement, of settling Promissory Notes of the Government of India producing an annual income of one lac of Rupees and the said Mansion-house and hereditaments, to the uses, upon the trusts, and for the purposes hereinafter limited and declared, concerning the same respectively.

And of Government Promissory Notes.

Desire of first Baronet that his successors should take his names.

And whereas the said Sir Jamsetjee Jejeebhoy was also desirous that the heirs male of his body to whom the said title and dignity of Baronet should descend, should take and bear the names of "Jamsetjee Jejeebhoy" in lieu of any other name or names whatever which they respectively might bear at the time of such descent on them respectively; and he was also desirous that the Revenue Commissioner for the Northern division of the Presidency of Bombay, the Accountant General, and the Sub-Treasurer at Bombay for the time being should be Trustees of the aforesaid Promissory Notes, and be likewise the Trustees for carrying into execution the general purposes and powers of this Act, with relation to the same securities, and also with relation to the same Mansion-house and hereditaments.

And whereas the said Sir Jamsetjee Jejeebhoy departed this life on the 14th of April 1859, before the aforesaid engagement with Her Majesty's Government was carried out on his part, and by his Will dated the 9th of April 1853, duly signed and executed

by him, gave and devised the residue of his estate, houses, lands, securities, monies, and effects to and amongst his sons Cursetjee Jamsetjeee, Rustomjee Jamsetjee and Sorabjee Jamsetjee and appointed his wife Avaboye and his said three sons, the Executrix and Executors of his said Will, and the said Will has since been duly proved by the said Cursetjee Jamsetjee, Rustomjee Jamsetjee, and Sorabjee Jamsetjee alone; and whereas on the death of the said Sir Jamsetjee Jejeebhoy the said title or dignity of Baronet created by Her Majesty's said Letters Patent, devolved on and became and is now vested in the said Cursetjee Jamsetjee as the eldest son and heir male of the body of the said Sir Jamsetjee Jejeebhoy, deceased.

And whereas the said Cursetjee Jamsetjee, the second and present Baronet, Rustomjee Jamsetjee, and Sorabjee Jamsetjee as the sons, residuary legatees, and executors of the said Sir Jamsetjee Jejeebhoy, deceased, and the said Avaboye, now the Dowager Lady Jejeebhoy as executrix of the said Sir Jamsetjee Jejeebhoy, deceased, in fulfilment of the engagement so as aforesaid entered into by the said Sir Jamsetjee Jejeebhoy, deceased, with Her Majesty's Government, are desirous of settling the said Government Promissory Notes, and the said Mansion-house and hereditaments so as aforesaid agreed to be settled by the said Sir Jamsetjee Jejeebhoy, deceased, for the purpose of supporting the dignity of the said Baronetcy, to the uses, upon the trusts, and for the purposes hereinafter limited and declared concerning the same respectively. And whereas the said Dowager Lady Jejeebhoy is desirous that the said Mansion-house and hereditaments called Mazagon Castle, with their rights, members, and appurtenances shall be released, exonerated, and discharged from her right or title (if any) to dower or thirds and every other right, interest, or estate whatsoever which she, the said Dowager Lady Jejeebhoy, may or might have or claim to have in the said premises under any custom or law of the Parsees, or otherwise howsoever.

And whereas the aforesaid purposes cannot be effected without this Act of the Legislative Council of India.

It is enacted as follows:—(The sanction of Her Majesty having been previously obtained and signified in pursuance of an Act passed in the seventeenth year of the reign of Her said Majesty entitled "An Act to provide for the Government of India.")

I. The Revenue Commissioner for the Northern Division of the Presidency of Bombay, the Accountant General, and the Sub-Treasurer at Bombay shall, for the purposes of this Act, be a Corporation, and such Revenue Commissioner, Accountant General, and Sub-Treasurer shall be, and they are hereby constituted, as such corporation, the Trustees for executing the powers and purposes of this Act, and all the powers hereby vested in such Revenue Commissioner, Accountant General, and Sub-Treasurer as Trustees for the purposes of this Act shall be exercised by the persons for the time being acting as such Revenue Commissioner, Accountant General, and Sub-Treasurer.

The Revenue Commissioner, Northern Division, the Accountant General, and the Sub-Treasurer of Bombay to be a Corporation for execution of trusts of this Act.

II. The present Baronet and all other the heirs male of the body of the said first Baronet to whom the said title and dignity shall descend, pursuant to the limitation of the Patent whereby the said dignity is granted, shall take upon themselves respectively the names of "Jamsetjee Jejeebhoy" in lieu and in the place of any other name or names whatever, and the present Baronet and all such other heirs male of the first Baronet severally and successively shall be called by the names of "Jamsetjee Jejeebhoy," and by those names shall name, style, and write themselves respectively upon all occasions whatsoever.

The present and all future Baronets to take names of first Baronet.

III. Immediately from and after the passing of this Act, Promissory Notes of the Government of India producing an annual income of not less than one lac of Rupees shall be transferred into the name of the said Corporation, who shall hold the same upon the trusts and for the purposes hereinafter expressed concerning the same (that is to say) upon trust, if the same should be discharged by the Government of India, to invest the said sum in or on any stocks, funds, or securities of the Government of the United Kingdom of Great Britain and Ireland or of the Government of India, and in like manner as often as the same shall become necessary, to alter, vary, and change such stocks, funds, and securities for others of the same or like nature, and upon further trust, from time to time to pay and apply the dividends, interest, and annual

Government Promissory Notes producing an annual income of one Lac vested in Trustees.

On trust to re-invest, if paid off.

income of the said stocks, funds, and securities unto and for the benefit of the present Baronet, and the person who, as heir male of the body of the said first Baronet, shall, for the time being, have succeeded to and be in the enjoyment of the title of Baronet conferred by the said Letters Patent as aforesaid, notwithstanding any rule of law or equity to the contrary, and upon failure and in default of heirs male of the body of the said first Baronet to whom the same title and dignity of Baronet may descend, upon trust for the present Baronet, his executors, administrators, and assigns, which ultimate remainder or reversion, it shall be lawful for the present Baronet, his executors, administrators, and assigns, at any time or times, during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said first Baronet as aforesaid, to assign, transfer, bequeath, and dispose of by deed or will, or other assurance or assurances.

And to pay income to the Baronet for the time being.

With ultimate trust for second Baronet, his executors, administrators, and assigns and power to dispose thereof.

IV. The Trustees for the time being acting in the execution of the trusts hereby created during the minority of any person for the time being entitled to and in enjoyment of the said dignity of Baronet under the limitations of the said Letters Patent, shall pay and apply for and towards the maintenance, education, and benefit of such Baronet, in each and every year during such his minority as aforesaid, so much only of the annual interest, dividends, and income of the said Trust Funds and premises as such Trustees shall, in their discretion, think proper, and shall, from time to time, invest the residue of the said annual dividends, interest, and income of the said Trust Funds and premises in and upon the stock, funds, and securities of the Government of the United Kingdom of Great Britain and Ireland, or of the Government of India, and shall, upon such Baronet attaining his majority, pay over, transfer, and assign to him or as he shall direct, and for his absolute benefit, the said investments and all accumulations thereof.

Powers to Trustees to invest the surplus annual interest and income of the Trust Fund and premises during the minority of any Baronet, &c.

V. The mansion-house and other hereditaments called Mazagon Castle, situate in the Island of Bombay, with their rights, members, and appurtenances, of which the said first Baronet was seised to

Settlement of Mansion &c. in support of Baronetcy.

him and his heirs, shall, by force of this Act, from and immediately after the passing thereof, stand limited to the uses following (that is to say,) to the use of the present Baronet, and the heirs male of the body of the said first Baronet who may succeed to the title of Baronet, conferred by the said Letters Patent as aforesaid, and upon failure and default of heirs male of the body of the said first Baronet to whom the same title and dignity of Baronet may descend as aforesaid, to the use of the present Baronet, his heirs, and assigns for ever, which ultimate remainder or reversion it shall be lawful for him and his heirs and assigns, at any time or times during the continuance of the said title and dignity of Baronet, and until there shall be a failure of heirs male of the body of the said first Baronet as aforesaid, to grant, convey, devise, and dispose of by deed or will, or by any other assurance or assurances by which such an estate in remainder or reversion is capable by law of being conveyed or disposed of, by Parsee inhabitants of British India.

With ultimate remainder to the second Baronet in fee and power to dispose thereof.

VI. Provided always that in case any person who for the time being shall be the heir male of the body of the said first Baronet to whom the said title of Baronet shall have descended, shall, for the space of one whole year after he shall, by virtue of this Act, become entitled to the dividends, interest, and income of the said stocks, funds, and securities, or to the possession or receipt of the rents and profits of the said hereditaments, or being then under age shall, for the space of one whole year after he shall attain the age of twenty-one years, refuse or neglect to use the names of "Jamsetjee Jejeebhoy" as hereinbefore enacted, or in case any such person having so used those names shall, for the space of six calendar months consecutively during his natural life, discontinue so to use such names, then, in any or either of the said cases, the estate or interest of the person who shall so refuse or neglect to use, or having used shall so discontinue to use the said names of "Jamsetjee Jejeebhoy" shall, during the remainder of his respective natural life, be suspended; and that, during any and every such suspension, the dividends, interest, and income of the said stocks, funds, and securities and the possession and actual occupation, and also the rents and profits of the said here-

Provision in case of refusal or discontinuance of names of first Baronet.

ditaments shall devolve and belong to the person who, as heir male of the body of the first Baronet, would have succeeded to and been in the enjoyment of the title of Baronet conferred by the said Letters Patent in case the person so refusing or neglecting to use or discontinuing to use the said names of "Jamsetjee Jejeebhoy" had departed this life, but if there should be no such heir male, then to the person or persons who would be entitled to the same in case there had then been a total failure of issue male of the first Baronet entitled to the said dignity of Baronet.

Baronet in possession may jointure.

VII. It shall be lawful for the present Baronet and for any person upon whom the said title of Baronet shall, from time to time, descend, when in the actual enjoyment of the said title, and who shall not refuse neglect, or discontinue to use, for the respective periods hereinbefore in that behalf mentioned, the said names of "Jamsetjee Jejeebhoy" as hereinbefore enacted, either before or after his marriage with any woman or women by any deed or deeds, writing or writings with or without power of revocation to be by him sealed and delivered in the presence of two or more credible witnesses (but subject and without prejudice to any annuity or annuities, if any, which shall be then subsisting and payable by virtue of any appointment made under and in pursuance of this present power) to limit and appoint unto any woman or women whom he shall marry for her or their life or lives, and for her or their jointure or jointures in bar of dower or other legal or customary rights, any annuity or yearly sum not exceeding the sum of Company's Rupees ten thousand, clear of all taxes, charges, and deductions whatsoever, to commence and take effect immediately after the decease of the person limiting or appointing the same and to be issuing and payable out of the dividends, interest, and annual income of the said stocks, funds, and securities, and to be paid and payable by equal half-yearly payments on the thirtieth day of June and the thirty-first day of December, the first of the said half-yearly payments to be made on the half-yearly day which shall first happen after the decease of the person who shall have appointed such annuity or yearly sum, provided always that, in case any person on whom such title shall descend, shall have refused or neglected to use the names of "Jamsetjee Jejeebhoy" or shall discontinue to use such names for six calen-

dar months consecutively during his natural life, every such limitation and appointment, either previously or afterwards made by him, shall be and become inoperative and invalid, and no such annuity hereby created or appointed shall take effect or be payable or chargeable on the said stocks, funds, and securities notwithstanding any such limitation or appointment.

Limit of aggregate of jointure payable contemporaneously.

VIII. Provided always that the said dividends, interest, and annual income of the said stocks, funds, and securities shall not at one and the same time be subject to the payment of more than the yearly sum of Company's Rupees twenty thousand for or in respect of any jointure or jointures which shall be made in pursuance of the power hereinbefore contained, so that if by virtue of, or under the same power, the said dividends, interest, and annual income would, in case this present provision had not been inserted, be charged at any one time with a greater yearly sum for jointures in the whole than the yearly sum of Company's Rupees twenty thousand, the yearly sum which shall occasion such excess, or such part thereof as shall occasion the same, shall during the time of such excess abate and not be payable.

Mansion-house and hereditaments not to be subject to dower.

IX. The said Mansion-house and hereditaments called Mazagon Castle, with their rights, members, and appurtenances, shall not be subject to dower of the said Dowager Lady Jejeebhoy the widow of the first Baronet or of the wife or wives of the present Baronet, or of any of the persons who may successively be entitled thereto under the aforesaid limitations, or to any other right, interest, or estate whatsoever which the said Dowager Lady Jejeebhoy or any such wife or wives may or might have or claim to have in the said Mansion-house and hereditaments under any custom or law of the Parsees, or otherwise howsoever.

Alienation prohibited during the Baronetcy.

X. Subject to the enactments contained in the third and fifth Sections, with respect to the ultimate remainders or reversions, so long as the said title and dignity of Baronet shall endure, and until there shall be a failure of heirs male of the body of the first Baronet to whom the said title and dignity of Baronet might descend pursuant to the limitations of the Patent whereby the said dignity was granted, neither the present Baronet nor any of

the heirs male of the body of the first Baronet in whose favor trusts are hereinbefore declared of the dividends, interest, and annual income of the said stocks, funds, and securities, or to whom the said Mansion-house and hereditaments called Mazagon Castle shall stand limited under this Act, shall transfer, dispose of, alien, convey, charge, or encumber the said stocks, funds, and securities, or any part thereof, or the dividends, interest, and annual income thereof, or of any part thereof, or the said Mansion-house or hereditaments or any part thereof, for any greater or larger estate, interest, or time than during his natural life, and for such portion thereof only as he shall continue to use the names of "Jamsetjee Jejeebhoy," nor shall have any power to discontinue or bar the estate of any person or persons for whose benefit trusts are declared by this Act of the dividends, interest, and annual income of the said stocks, funds, and securities, or to or upon whom the said Mansion-house and hereditaments and the rents and profits thereof are by this Act limited to come or devolve in any manner whatsoever either by default or otherwise, or to prevent any such person or persons from succeeding to, holding or enjoying, receiving or taking the same premises according to the true intent of the provisions hereinbefore contained, nor shall the same premises or any of them be held by any Court of law or equity to have vested in any such person as aforesaid for any greater estate or interest than during his life, and only during such portion thereof as he shall continue to use the names of "Jamsetjee Jejeebhoy," and every attempt to make any conveyance, assignment, or assurance contrary to the intention of this Act shall be, and is hereby declared and enacted to be void.

Power to the Governor in Council of Bombay to appoint persons holding Government Offices, as Trustees under this Act, in the event of the Offices of Revenue Commissioner, Accountant General, and Sub-Treasurer, or any of them being abolished.

XI. If at any time hereafter the said Offices of Revenue Commissioner for the Northern Division of the Presidency of Bombay, Accountant General, and Sub-Treasurer at Bombay or any or either of them shall be abolished or cease to exist, it shall be lawful to and for the Governor in Council of Bombay for the time being with the consent and approbation of the person for the time being in the actual enjoyment of the said title of Baronet, and using the said names of "Jamsetjee Jejeebhoy" and

having attained the age of twenty-one years, and if there shall not be any such person, then without the consent or approbation of any person or persons whomsoever, to nominate and appoint any other persons or person holding or filling any other Public Government Offices or Office at Bombay, to be and act as Trustees or Trustee in the execution of the trusts created by this Act, and upon such nomination and appointment the said Trust Funds and premises shall by force of this Act forthwith vest in the persons or person so nominated and appointed Trustees or Trustee as lastly mentioned, together with the then continuing Trustees or Trustee, but if there shall be no such continuing Trustees or Trustee then in new Trustees only upon and for the trusts and purposes hereby created and declared, and when and so often as any such nomination and appointment shall be made, such new Trustee or Trustees jointly with such continuing Trustees or Trustee, or such new Trustees only, as the case may be, shall be, and they are hereby constituted a Corporation for executing the powers and purposes of this Act.

Trustees' indemnity.

XII. The Trustees for the time being acting in execution of the trusts and powers hereby created and reposed in them respectively, and their successors respectively, shall be charged and chargeable for such monies only as he and they respectively shall actually receive by virtue of the trusts, powers, and provisions of this Act, notwithstanding his, their, or any of their giving or signing, or joining in giving or signing any receipt or receipts for the sake of conformity; and he and they respectively shall not be answerable or accountable for any banker or broker, agent or other person with whom or in whose hands any part of the said trust money shall or may be deposited or lodged for safe custody or otherwise in the execution of any of the trusts, powers, and provisions hereinbefore created or contained; and the Trustees for the time being acting in execution of the trusts and powers hereby created and reposed in them respectively, and their successors respectively, shall not be answerable or accountable for the insufficiency or deficiency of any security or securities, stocks or funds in or upon which the said trust money or any part thereof shall be placed out or invested, nor for any other misfortune, loss, or damage which may happen in the execution of the aforesaid trusts, powers, and pro-

visions, or in relation thereto; and it shall be lawful for him and them respectively with or out of the money which shall come to his or their respective hands by virtue of the trusts and provisions of this Act, to retain and re-imburse to himself and themselves respectively all costs, damages, and expenses which he and they respectively shall or may sustain, expend, or disburse in or about the execution of the aforesaid powers, trusts, and provisions, or in relation thereto.

General Saving.

XIII. Saving always to the Queen's Most Excellent Majesty, Her heirs and successors, and to all and every other person and persons bodies politic and corporate, and his, her, and their respective heirs, successors, executors, and administrators and every of them (other than and except the said Sir Jamsetjee Jejeebhoy, deceased, his devisees, heirs, and assigns), all such estate, right, title, interest, claim, and demand whatsoever of, in, to, out of, or upon the said Mansion-house and hereditaments called Mazagon Castle, or any part or parts thereof, as they, every or any of them, had, before the passing of this Act, and would, could or might have had, held, or enjoyed in case this Act had not been passed.

REGISTRATION OF SOCIETIES.

ACT No. XXI. OF 1860.

[*Received assent of the G. G. on the 21st May*, 1860.

Recites expediency of improving the legal condition of Societies for the promotion of literature, &c.

1. Empowers any seven persons associated for literary, scientific or charitable purpose to register and thereby become a Society under this Act.

2, 3, 4. Prescribes the memorandum to be registered; and (3) Registrar of Joint Stock Companies to certify the registration; and (4) a new list of names &c. of Members, &c. to be filed annually.

5, 6, 7, 8. Vests the property of the Society in the governing body for purpose of Proceedings Civil and Criminal; and (6) entitles Society to sue and be sued in the name of its President &c.; and (7) no suit to abate by reason of change of officers; and (8) judgment to be recovered or enforced only for or against the Society.

9. Gives a remedy at law for penalty under Bye-Law and empowers Societies to make Bye-Laws.

10. Empowers Society to sue Members, and provides a remedy for defendant in case action fails.

11. Empowers Society to prosecute Members for criminal offences against the Society.

12, 13, 14. Empowers registered Society to alter its purposes, to amalgamate with other Society at Special Meeting; and (13) to dissolve by resolution of Members, &c. but consent of Government necessary if Government be a Member; and (14) on dissolution, its property to be applied in satisfaction of debts, and surplus given to some other Society, except in case of Societies in nature of Joint Stock Companies.

15. Subscribers, if not in arrear, to be considered Members.

16. The governing body to be those appointed under the Rules.

17, 18. Entitles Societies for literary, &c. purposes registered under Act XLIII. 1850 and other such Societies not registered, to be registered under this Act; and (18) as to how such registration is to be effected.

19. Entitles any person to inspect all registered documents on payment of fee.

20. Names and describes the Societies which may avail themselves of the Act.

An Act for the Registration of Literary, Scientific, and Charitable Societies.

Preamble.

Whereas it is expedient that provision should be made for improving the legal condition of Societies established for the promotion of Literature, Science, or the Fine Arts, or for the diffusion of useful knowledge, or for Charitable purposes: It is enacted as follows:—

Societies formed by Memorandum of Association and Registration.

I. Any seven or more persons associated for any Literary, Scientific, or Charitable purpose, or for any such purpose as is described in Section XX. of this Act, may, by subscribing their names to a Memorandum of Association, and filing the same with the Registrar of Joint-Stock Companies under Act XIX. of 1857, form themselves into a Society under this Act.

Memorandum of Association.

II. The Memorandum of Association shall contain the following things, (that is to say)

The name of the Society.

The objects of the Society.

The names, addresses, and occupations of the Governors, Council, Directors, Commitee, or other governing body to whom, by the Rules of the Society, the management of its affairs is entrusted. A copy of the Rules and Regulations of the Society,

certified to be a correct copy by not less than three of the Members of the governing body, shall be filed with the Memorandum of Association.

Registration.

III. Upon such Memorandum and certified copy being filed, the Registrar shall certify under his hand that the Society is registered under this Act. There shall be paid to the Registrar for every such registration a fee of fifty Rupees, or such smaller fee as the Governor General of India in Council may from time to time direct; and all fees so paid shall be accounted for to Government.

Fees.

Annual list of managing body to be filed.

IV. Once in every year, on or before the 14th day succeeding the day on which, according to the Rules of the Society, the Annual General Meeting of the Society is held, or if the Rules do not provide for an Annual General Meeting, in the month of January, a list shall be filed with the Registrar of Joint Stock Companies, of the names, addresses, and occupations of the Governors, Council, Directors, Committee, or other governing body then entrusted with the management of the affairs of the Society.

Property of Society how to be vested.

V. The property, movable and immovable, belonging to a Society registered under this Act, if not vested in trustees, shall be deemed to be vested, for the time being, in the governing body of such Society, and in all proceedings, Civil and Criminal, may be described as the property of the governing body of such Society by their proper title.

How suits by and against Societies to be brought.

VI. Every Society Registered under this Act may sue or be sued in the name of the President, Chairman, or Principal Secretary, or Trustees, as shall be determined by the Rules and Regulations of the Society, and in default of such determination, in the name of such person as shall be appointed by the governing body for the occasion; provided that it shall be competent for any person having a claim or demand against the Society, to sue the President or Chairman, or Principal Secretary or the Trustees thereof, if on application to the governing body some other Officer or person be not nominated to be the defendant.

VII. No suit or proceeding in any Civil Court shall abate or

Suits not to abate.

discontinue by reason of the person, by or against whom such suit or proceedings shall have been brought or continued, dying or ceasing to fill the character in the name whereof he shall have sued or been sued, but the same suit or proceeding shall be continued in the name of or against the successor of such person.

How judgment to be enforced against.

VIII. If a judgment shall be recovered against the person or Officer named on behalf of the Society, such judgment shall not be put in force against the property, movable or immovable, or against the body of such person or Officer, but against the property of the Society. The application for execution shall set forth the judgment, the fact of the party against whom it shall have been recovered having sued or having been sued, as the case may be, on behalf of the Society only, and shall require to have the judgment enforced against the property of the Society.

Society may make Bye-law to be enforced.

IX. Whenever by any Bye-law duly made in accordance with the Rules and Regulations of the Society, or, if the Rules do not provide for the making of Bye-laws, by any Bye-law made at a General Meeting of the Members of the Society convened for the purpose, (for the making of which the concurrent votes of three-fifths of the Members present at such Meeting shall be necessary), any pecuniary penalty is imposed for the breach of any Rule or Bye-law of the Society, such penalty, when accrued, may be recovered in any Court having jurisdiction where the defendant shall reside, or the Society shall be situate, as the governing body thereof shall deem expedient.

Members liable to be sued as strangers.

X. Any Member who may be in arrear of a subscription which according to the Rules of the Society he is bound to pay, or who shall possess himself of or detain any property of the Society in a manner or for a time contrary to such Rules, or shall injure or destroy any property of the Society, may be sued for such arrear or for the damage accruing from such detention, injury, or destruction of property in the manner hereinbefore provided. But if the defendant shall be successful in any suit or other proceeding brought against him at the instance of the Society, and shall be adjudged to recover his costs, he may elect to proceed to recover the same

from the Officer in whose name the suit shall be brought, or from the Society, and in the latter case shall have process against the property of the said Society in the manner above described.

Members guilty of offences punishable as strangers.

XI. Any Member of the Society who shall steal, purloin, or embezzle any money or other property, or wilfully and maliciously destroy or injure any property of such Society, or shall forge any deed, bond, security for money, receipt, or other instrument, whereby the funds of the Society may be exposed to loss, shall be subject to the same prosecution, and if convicted, shall be liable to be punished in like manner, as any person not a Member would be subject and liable to in respect of the like offence.

Societies enabled to alter, extend, or abridge their purposes.

XII. Whenever it shall appear to the governing body of any Society registered under this Act, which has been established for any particular purpose or purposes, that it is advisable to alter, extend, or abridge such purpose to or for other purposes within the meaning of this Act, or to amalgamate such Society either wholly or partially with any other Society, such governing body may submit the proposition to the Members of the Society in a written or printed report, and may convene a Special Meeting for the consideration thereof according to the Regulations of the Society: but no such proposition shall be carried into effect unless such report shall have been delivered or sent by post to every Member of the Society ten days previous to the Special Meeting convened by the governing body for the consideration thereof, nor unless such proposition shall have been agreed to by the votes of three-fifths of the Members dilivered in person or by proxy, and confirmed by the votes of three-fifths of the Members present at a second Special Meeting convened by the governing body at an interval of one month after the former Meeting.

Provision for the dissolution of Societies and adjustment of their affairs.

XIII. Any number not less than three-fifths of the Members of any Society may determine that it shall be dissolved, and thereupon it shall be dissolved forthwith, or at the time then agreed upon, and all necessary steps shall be taken for the disposal and settlement of the property of the Society, its claims, and liabilities, according to the Rules of the said Society applicable thereto, if any, and, if not, then as the governing body shall find expedient,

provided that, in the event of any dispute arising among the said governing body or the Members of the Society, the adjustment of its affairs shall be referred to the principal Court of original Civil jurisdiction of the District in which the chief building of the Society is situate; and the Court shall make such order in the matter as it shall deem requisite. Provided that no Society shall be dissolved unless three-fifths of the Members shall have expressed a wish for such dissolution by their votes delivered in person, or by proxy, at a general Meeting convened for the purpose. Provided that whenever the Government is a Member of, or a contributor to, or otherwise interested in any Society registered under this Act, such Society shall not be dissolved without the consent of Government.

Upon a dissolution no Member to receive profit.

XIV. If upon the dissolution of any Society registered under this Act there shall remain, after the satisfaction of all its debts and liabilities, any property whatsoever, the same shall not be paid to or distributed among the Members of the said Society or any of them, but shall be given to some other Society, to be determined by the votes of not less than three-fifths of the Members present personally or by proxy at the time of the dissolution, or in default thereof, by such Court as aforesaid; provided however that this Clause shall not apply to any Society which shall have been founded or established by the contributions of shareholders in the nature of a Stock Company.

Proviso for Joint Stock Companies.

Who is a Member.

XV. For the purposes of this Act a Member of a Society shall be a person who having been admitted therein according to the Rules and Regulations thereof, shall have paid a subscription, or shall have signed the roll or list of Members thereof, and shall not have resigned in accordance with such Rules and Regulations; but in all proceedings under this Act no person shall be entitled to vote or be counted as a Member whose subscription at the time shall have been in arrear for a period exceeding three months.

The governing body defined.

XVI. The governing body of the Society shall be the Governors, Council, Directors, Committee, Trustees, or other body to whom by the Rules and Regulations of the Society the management of its affairs is entrusted.

XVII. Any Company or Society established for a Literary, Scientific, or Charitable purpose and registered under Act XLIII. of 1850, or any such Society established and constituted previously to the passing of this Act but not registered under the said Act XLIII. of 1850, may at any time hereafter be registered as a Society under this Act; subject to the proviso that no such Company or Society shall be registered under this Act unless an assent to its being so registered has been given by three-fifths of the Members present personally, or by proxy, at some General Meeting convened for that purpose by the governing body. In the case of a Company or Society registered under Act XLIII. of 1850, the Directors shall be deemed to be such governing body. In the case of a Society not so registered, if no such body shall have been constituted on the establishment of the Society, it shall be competent for the Members thereof, upon due notice, to create for itself a governing body to act for the Society thenceforth.

Registration of Societies formed before this Act.

XVIII. In order to any such Society as is mentioned in the last preceding Section obtaining registry under this Act, it shall be sufficient that the governing body file with the Registrar of Joint Stock Companies under Act XIX. of 1857, a Memorandum showing the name of the Society, the objects of the Society, and the names, addresses and occupations of the governing body, together with a copy of the Rules and Regulations of the Society certified as provided in Section II., and a copy of the report of the Proceedings of the General Meeting at which the registration was resolved on.

Such Societies to file Memorandum, &c with Registrar of Joint-Stock Companies.

XIX. Any person may inspect all documents filed with the Registrar under this Act on payment of a fee of one Rupee for each inspection; and any person may require a copy or extract of any document or any part of any document, to be certified by the Registrar, on payment of two annas for every hundred words of such copy or extract; and such certified copy shall be *primâ facie* evidence of the matters therein contained in all legal proceedings whatever.

Inspection of documents.

Certified copies.

XX. The following Societies may be registered under this

To what Societies the Act shall apply.

Act, Charitable Societies, the Military Orphan Funds or Societies established at the several Presidencies of India, Societies established for the promotion of Science, Literature, or the fine Arts, for instruction, the diffusion of useful knowledge, the foundation or maintenance of Libraries or Reading-rooms for general use among the Members or open to the public, or public Museums and Galleries of Paintings and other works of Art, Collections of Natural History, Mechanical and Philosophical Inventions, Instruments, or Designs.

CHITTAGONG.

ACT No. XXII. OF 1860.

[*Received assent of the G. G. on the* 21*st May*, 1860.

Recites expediency of making the Hilly and Forest Tracts on eastern side of Chittagong non-regulation Districts.

1. Tracts of country specified in Schedule to cease to be under regulation Courts, &c.

2. Administration of Civil and Criminal judicature as regards Courts as well of Appeal as of First Instance to be provided for by Lt. G. of Bengal.

3. Empowers the Lt. G. to direct Appeals to go either to Judge of Chittagong or to S. and N. Courts and B of Revenue.

4. Lt. G. may direct any officer to refer his criminal sentences for confirmation to the Sudder, and no sentence of death to be carried out until confirmed by Sudder.

5. Empowers Lt. G. to direct to what ports and to what places for transportation persons sentenced to imprisonment and transportation shall go.

6. Questions as to boundary of any place falling within the Scheduled Tracts shall be decided by the Commissioner of Revenue for Chittagong.

7. Act to take effect from date fixed by Lt. G. and notification to be made, &c.

Schedule.

An Act to remove certain tracts on the Eastern border of the Chittagong District from the jurisdiction of the tribunals established under the general Regulations and Acts.

Preamble.

Whereas it is expedient to remove the Hilly and Forest tracts of country situated on the Eastern border of the District of Chittagong from the jurisdiction exercised by the Civil, Criminal, and Revenue Courts and Officers of that District, under the general Regulations and Acts of the Government: It is enacted as follows:—

I. The tracts of country described in the Schedule to this Act are hereby removed from the jurisdiction of the Courts of Civil and Criminal Judicature, and from the control of the Offices of Revenue constituted by the Regulations of the Bengal Code and the Acts passed by the Governor General of India in Council and the Legislative Council of India, as well as from the system of procedure prescribed for the said Courts and Offices by the Regulations and Acts aforesaid; and no Act hereafter passed by the Legislative Council of India relative to the constitution or procedure of the said Courts and Offices shall be deemed to extend to any part of the said tract, unless the same be specially named therein: provided that nothing herein contained shall extend to or affect any case now pending in any Court or Office.

Certain tracts removed from the operation of the General Regulations and Acts.

Proviso.

II. The administration of Civil and Criminal justice and the superintendence of the settlement and realization of the public Revenue and of all matters relating to rent within the said tracts, are hereby vested in such Officer or Officers as the Lieutenant Governor of Bengal may for the purpose of tribunals of first instance or of reference and appeal appoint, and the Officer or Officers so appointed shall, in the matter of the administration and superintendence aforesaid, be subject to the direction and control of the Lieutenant Governor of Bengal, and be guided by such instructions as the Lieutenant Governor of Bengal may from time to time issue.

Administration of justice and collection of revenue vested in Officers subject to the control of the Lieutenant Governor of Bengal.

III. It shall be lawful for the Lieutenant Governor of Bengal to direct that an appeal may be heard in any of the matters described in the last preceding Section by the Civil and Sessions Judge of Chittagong or the Commissioner of Revenue for that District or by the Sudder Dewanny and Nizamut Adawlut or by the Board of Revenue, and to declare in what cases the order made by any Officer or Court empowered by the Lieutenant Governor to dispose of any of the matters aforesaid, shall be final.

Appeals.

IV. It shall be lawful to the Lieutenant Governor of Bengal to direct any Officer empowered to administer Criminal jurisdiction in or for the tracts afore-

Reference to the Sudder Court.

said, to refer the sentence passed by him in any class of Criminal trials for the confirmation of the Sudder Court; and no sentence of death passed by any person competent under the direction of the Lieutenant Governor to pass such sentence, shall be carried into execution until it be confirmed by the Sudder Court. In disposing of any trial referred for disposal under this Section, the Sudder Court shall not call for the Futwah of its Law Officer, and shall pass such order as it may deem just and proper, so as that it shall not convict any person acquitted by the referring Officer, or enhance any sentence pronounced by him.

Place of imprisonment or transportation.

V. Any person liable to be imprisoned in any Civil or Criminal Jail or to be transported beyond sea under any order or sentence passed by any Officer or Court empowered as provided in this Act, may be imprisoned in any Civil or Criminal Jail or transported to any place which the Lieutenant Governor of Bengal may direct.

Questions of disputed boundary to be determined by Commissioner of Chittagong.

VI. When a question shall arise whether any place falls within the tracts described in the Schedule of this Act, it shall be competent to the Commissioner of Revenue for the District of Chittagong to consider and determine on which side of the described boundary the place aforesaid may lie, and the order made by the Commissioner shall be final.

Commencement of Act.

VII. This Act shall take effect from such date as shall be fixed by the Lieutenant Governor of Bengal, and notification thereof shall be published in the Office of the Commissioner of Revenue and the Courts of the Civil and Sessions Judge and of the Magistrate of Chittagong, and in such other manner as the Lieutenant Governor may direct.

SCHEDULE.

The boundary of the Hilly and Forest tract referred to in the foregoing Act shall be understood generally to run to the eastward of the surveyed area of the villages situated on the eastern frontier of the Chittagong District as surveyed and mapped in the course of the Revenue Survey of that District, and shall be more particularly taken to be indicated as follows:—

As respects Thannah Futtickcherree, all the country lying east of the villages Ramghur, Joozkola, Hapuneah, Fuckeerachung, Kunchunpoor, and Goomareetulla.

As respects Thannah Hathezaree, all the country lying east of Mugkatta, Radahmadhebpoor, and other surveyed villages of this Thannah and of a line drawn from the south-eastern boundary to Gogra in Faree Rungunneah.

" " Faree Rungunneah, all the country lying to the east of Gogra, Nichintapoor, Kodala, Puddooa, Dood-Pookereah, and other surveyed villages of this Faree situated on both sides of the Fenny River.

" " Thannah Putteah, all the country lying east of the surveyed villages of this Thannah, that is to say lying east of a line drawn from the eastern surveyed boundary of Dood-Pookereah in Faree Rungunneah down to the eastern surveyed boundary of the village Doobacherree lying north of the River Sunkoo.

" " Thannah Chuckereah, all the country lying east of Pooranghur, Burdooara, Andar Manik, Rajbarree, and other surveyed villages of this Thannah.

" " Thannah Sutkuneah, all the country lying eastward of a line drawn from the village Rajbarree in Thannah Tulkuneah to the surveyed villages Boonoo and Bilcherrie on the Moree River in Thannah Chuckereah, and also all the country lying eastward of the surveyed villages of this Thannah between Bilcherrie and Pagoleebeel.

" " Thannah Ramoo, all the country lying east of a line drawn from Pagoleebeel in Thannah Chuckeriah to Edghur, Gurjamah, and Kucheppeah in Thannah Ramoo.

Also all the country comprised in Thannah Teknaaf and lying south of the mouth of the Rajoo River and south and east of a line drawn from the Rajoo River to the surveyed village Kucheppeah of Thannah Ramoo.

ABKAREE REVENUE.

ACT No. XXIII. OF 1860.

[*Received assent of the G. G. on the 23rd May*, 1860.

Recites expediency of increasing the duty on distillery-spirits.

1. Repeals Act XXI. 1856, s. 9 also ss. 7 and 15 partially, and establishes duty of 3 rupees.

2. Spirits may be removed from distillery for export to any Indian port except Free port under Bond for payment of duty if not exported, &c.

3. Empowers Magistrates to commit to prison on default of payment of fine or forfeiture.

4. Indemnifies officers for collecting the increased duty, &c. from the 21st Jany. 1860.

5. Act to be read with Act XXI. 1856.

Form f Bond.

An Act to amend Act XXI. of 1856 (to consolidate and amend the law relating to the Abkaree Revenue in the Presidency of Fort William in Bengal.)

Preamble.

Whereas it is expedient to increase the rate of duty levied on spirits manufactured at distilleries worked according to the English method, and otherwise to amend Act XXI. of 1856: It is enacted as follows:—

Sections repealed.

I. Section IX. Act XXI. of 1856, so much of Section VII. of the said Act as prescribes that the duty leviable on spirits manufactured at distilleries worked according to the English method for the Imperial gallon of the strength of London proof shall be one Rupee, and so much of Section XV. of the said Act as prohibits spirits under bond from being exported or shipped to any Port in India without payment of duty, are hereby repealed.

Rate of duty to be levied on spirits manufactured according to the English method.

On and after the 21st January 1860 it shall be lawful for the Government to levy the duty as aforesaid at the rate of three Rupees, and the duty shall be rateably increased as the strength exceeds London proof.

Removal of spirits from distillery under bond without payment of duty.

II. Spirits may be removed from any licensed distillery for exportation without payment of duty under such rules and restrictions as may be from time to time prescribed by the Board of Revenue, on the person removing them executing a bond with one or more sureties to the Government in the form hereunto annexed for the payment of the prescribed duty upon such portion of the said spirits as may not be exported within four months from the date of the bond, or upon such portion as may be exported to any other Port within British India not being a free Port, proof of the landing whereof and of the payment of the duty whereon shall not be furnished to the satisfaction of the Board of Revenue within six months from the date of such bond. Provided how-

ever that it shall be lawful for the Collector, with the sanction of the Commissioner, on sufficient cause shown, to extend the period allowed for the exportation of the spirits, or as the case may be for the production of such proof as aforesaid, for a further term of four months. Provided also that spirits exported as aforesaid shall, if imported at any Port in the Territories subject to the Government of India, be charged with the duty payable on account of spirits imported by sea under any Act for the time being in force.

Imprisonment in default of payment of fine.

III. When any person is sentenced to pay any fine or forfeiture under the said Act, such person in default of payment of the same may be imprisoned by order of the Magistrate for any term not exceeding two months when the amount of the fine or forfeiture shall not exceed fifty Rupees, or for any term not exceeding four months when the amount of the fine or forfeiture shall not exceed two hundred Rupees, or for any term not exceeding six months when the amount of the fine or forfeiture shall exceed two hundred Rupees: but in any case the imprisonment shall determine upon the payment of the fine or forfeiture adjudged.

Indemnity to Collectors, &c.

IV. Every Collector or other Officer is hereby indemnified for any thing done on and after the said 21st of January 1860 in collecting or enforcing the duty leviable under the 1st Section of this Act, or by virtue of any order of Government heretofore made authorizing the levy of any such duty, or in otherwise carrying out this Act; and no action or other proceeding shall be maintained against any such Collector or other Officer in respect of any thing so done.

Construction of Act.

V. This Act and Act XXI. of 1856 as hereby amended shall be read as one Act.

FORM OF BOND UNDER SECTION II.

Know all men by these presents, That we are jointly and severally held and firmly bound unto the Secretary of State for India in the sum of Company's Rupees to be paid to the said Secretary of State for India; for which payment well and truly to be made, we jointly and severally bind ourselves and each of us binds himself and each and every one

of our respective heirs, administrators, and representatives by these presents.

Sealed with our seals.

Dated this *day of*

Whereas the above bounden are justly and truly indebted to the Secretary of State for India in the sum of Company's Rupees being the amount of duty payable to the Secretary of State for India at the rate of three Rupees per imperial gallon London proof for gallons of manufactured at which the said ha been allowed to remove thence for exportation by sea without having paid the amount of such duty. Now the condition of this obligation is such that, if the above-bounden his or their heirs, executors, administrators, or representatives or some or one of them, do and shall at the expiration of four calendar months from the date of this obligation well and truly pay or cause to be paid to the said Secretary of State for India duty at the rate of three Rupees per imperial gallon of proof spirit for all or any portion of the above-mentioned which shall not have been exported by sea or which shall have been passed for local consumption, or if the above bounden his or their heirs, executors, administrators, or representatives or one of them do and shall within four months from the date of this obligation export the said by sea to some Port in British India (not being a free Port) and within six months from the date of this obligation afford proof to the satisfaction of the Board of Revenue that the same has been landed at such Port (not being a free Port) and that duty thereon according to the provisions of this Act has at such Port been paid thereon, then this obligation shall be void; otherwise it shall remain in full force and virtue.

Sealed and delivered
in the presence of

SCOTCH--CHURCH MARRIAGES.

ACT No. XXIV. OF 1860.

[*Received assent of the G. G. on the 23rd May*, 1860.

Repeals so much of the Act of Parliament, 58 G. 3 c. 84 as requires that the marriage ceremony should be performed by Government Chaplains.

An Act for the solemnization of Marriages in India by ordained Ministers of the Church of Scotland.

Preamble.

Whereas by an Act of Parliament passed in the 58th year of the reign of King George the 3rd, entitled "An Act to remove doubts as to the validity of certain Marriages had and solemnized within the British Territories in India," it was declared and enacted (amongst other things) that from and after the 31st day of December then next ensuing all marriages between persons, both or one of such persons being members or member of, or holding communion with the Church of Scotland, and making a declaration to the effect thereinafter mentioned, which marriages should be had and solemnized within the British Territories in India by ordained Ministers of the Church of Scotland as by law established, and appointed by the United Company of Merchants of England trading to the East Indies to officiate as Chaplains within the said territories, should be, and should be adjudged, esteemed, and taken to be of the same, and no other force and effect, as if such marriages were had and solemnized by Clergymen of the Church of England, according to the rites and ceremonies of the Church of England: and whereas it is expedient that so much of the said Act of Parliament as requires ordained Minister of the Church of Scotland celebrating such marriages to be also persons appointed to officiate as Chaplains within the said Territories, should cease to have effect: It is enacted as follows:—

Part of 58 Geo. III. c. 84 repealed.

I. So much of the said Act of Parliament as requires that the ordained Ministers of the Church of Scotland as by law established therein referred to should be persons appointed to officiate as Chaplains within the said Territories, is hereby repealed.

BASSEIN.--PORT DUES.

ACT No. XXV. OF 1860.

[*Received assent of the G. G. on the 23rd May*, 1860.

Recites necessity of fixing Port Dues for Bassein.

1, 2, 3, 4. Fixes Port Dues at 4 annas per ton on tonnage above 10 tons of sea-going vessels; and (2) at half rate for vessels driven into port by weather or damage and only unshipping cargo for repairs; and (3) exempts vessels from the port driven back by some causes and (4) no vessel to be chargeable more than once in 60 days.

5. Act to commence from 1st August: and all other Port Dues to cease.

6. Act to be read with Act XXII. 1855.

An Act for the levy of Port-dues in the Port of Bassein.

Preamble.

Whereas it is necessary to fix the amount of the Port-dues to be hereafter levied and taken in the Port of Bassein in accordance with the provisions of Act XXII. of 1855: It is enacted as follows:—

Port-due chargeable on sea-going vessels of ten tons and upwards entering the Port.

I. A Port-due at a rate not exceeding the rate of four annas per every ton of burden, shall be chargeable in respect of every sea-going vessel of the burden of ten tons and upwards which shall enter the said Port.

Rate of Port-due on vessels compelled by stress of weather to enter Port.

II. When any vessel enters the said Port, being driven in by stress of weather, or in consequence of having sustained any damage or for any other reason, but does not discharge or take in any cargo or passenger therein, (with the exception of such un-shipment and re-shipment as may be necessary for the purpose of repair), the Port-due chargeable in respect of such vessel shall be at a rate equal to one half the rate chargeable in respect of other vessels.

No Port-due on vessels compelled by stress of weather to re-enter Port.

III. Provided that, when any vessel having left the said Port is compelled to re-enter it by stress of weather or in consequence of having sustained any damage, no Port-due shall be chargeable in respect of such vessel.

No vessel to pay the Port-due oftener than once in sixty days.

IV. No vessel shall be required to pay the Port-due chargeable under this Act oftener than once in sixty days.

V. This Act shall commence and have effect from and after

Commencement of Act.

the 1st day of August 1860; and the local Government shall on or before that date, pursuant to Section XLII. Act XXII. of 1855, declare, by notification to be published in the Calcutta Gazette, the rates at which Port-dues shall be levied in the said Port subject to the provisions of and within the limits prescribed by this Act; and from and after the said date no Port-due shall be levied at the said Port except under the authority of Act XXII. of 1855 and of this Act.

Rates of Port-dues to be published.

No Port-due to be levied except under Act.

Act to be read as part of Act XXII. of 1855.

VI. This Act shall be read with and taken as a part of Act XXII. of 1855.

ADMINISTRATOR GENERAL.

ACT No. XXVI. OF 1860.

[*Received assent of the G. G. on the* 31*st May*, 1860.

Recites expediency of amending Act VIII. 1855.

1. A. G. on requisition of Military Secretary to administer estates not exceeding 500 rs. of Officers, Soldiers &c. without taking out letters of administration.

2. In cases within Act VIII. 1855 s. 43 A. G. or on his default creditor may administer estate under certificate, the creditor giving security if required by A. G.

3. Empowers government to appoint person to officiate for person officiating for A. G. if the latter obtains leave of absence.

An Act to amend Act VIII. of 1855 (relating to the office and duties of Administrator General.)

Preamble.

Whereas it is expedient to amend Act VIII. of 1855, relating to the office and duties of Administrator General: It is enacted as follows;—

Administrator General in certain cases to secure and distribute the estate and effects of Soldiers.

I. The Administrator General shall, when duly authorized or required so to do by the Military Secretary to Government, secure and distribute the assets of the estate and effects of any Officer, Soldier, or other person subject to any Articles of War, in all cases in which such estate and effects do not exceed on the whole five hundred Rupees, charging the estate with a commis-

sion of three per centum only. Provided always that it shall not be necessary for the Administrator General to take out letters of administration in cases referred to in this Section.

Proviso.

II. If in cases falling within Section XLIII. of Act VIII. of 1855, no person claiming to be entitled to a principal share of the effects of the deceased shall within three months obtain a certificate from the Administrator General under the said Section of the said Act, or letters of administration to the estate and effects of the deceased, the Administrator General may administer the estate without letters of administration in the same manner as if such letters of administration had been granted to him, and if he shall neglect or refuse to take upon himself the administration of the estate and effects, he shall upon the application of a creditor and upon being satisfied of his title, grant a certificate in the same manner as if such creditor were entitled to a principal share of the effects of the deceased, and such certificate shall have the same effect as a certificate granted under the provisions of the said Section of the said Act, and shall be subject to all the provisions of the said Act which are applicable to such certificate. Provided that the Administrator General may, before granting such certificate, if he think fit, require the creditor to give reasonable security for the due administration of the estate and effects of the deceased.

Grant of certificate to creditors.

Proviso.

III. Whenever any person holding the Office of administrator General shall obtain leave of absence, it shall be lawful for the Government to appoint some person to officiate as Administrator General, and such person while so officiating shall be subject to the same conditions and be bound by the same responsibilities as the Administrator General by any law now in force or that may hereafter be enacted, and he shall be deemed to be Administrator General for the time being under Act VIII. of 1855, and shall be liable to give security under Section VII. of the said Act in like manner as if he had been appointed Administrator General.

Appointment of Officiating Administrator General.

COLLECTION OF DEBTS ON SUCCESSIONS.

ACT No. XXVII. OF 1860.

[*Received assent of the G. G. on the 25th of June*, 1860.

Recites expediency of consolidating Acts providing for the security of persons paying debts to representatives of Hindoos, &c.

1. Repeals Act XXI. 1840, and VIII. 1842 partially; Act X. 1851 and VIII. 1854.

2. No debtor of deceased person to be compelled to pay debt except to persons having certificate under this Act or probate or letters of administration, unless payment is withheld from fraud or without ground of doubt as to person entitled.

3, 4. Certificate to be granted by Court of District in which deceased resided, or if of no fixed residence, in which property may be found; and (4) certificate to be conclusive as against debtors of deceased.

5. Court may require security from persons to whom certificate is granted.

6. The granting of a Certificate may be stayed by an appeal to the Sudder, which Court may grant fresh certificate which shall not prejudice payments made under former one without notice.

7. Certificate to operate throughout the Presidency except as after excepted.

8. The Certificate not to pass property on Government Securities or Bank or other shares unless expressly described in Certificate.

9. In case of disputed right to Government Securities Certificate to be granted to trustee appointed by Government, and Certificate to specify the persons appearing to be entitled, but not to prejudice other persons who may proceed by regular suit.

10. If disputes among rival claimants are not settled in 2 years from date of Certificate trustee may divide the securities rateably amongst the parties appearing entitled, &c.

11, 12. Certificate to Trustee to annul previous certificate; but (12) payments made under old certificate without notice to be valid.

13, 14, 15, 16. Certificate granted after probate or letters of administration to be invalid; except (14) to protect payments made without notice; and (15) the converse, probate and letters not to be valid as respects recovery of debts covered by certificate; except (16) to protect payment made without notice.

17. Curator of specified kind under Act XIX. 1841, to have only same powers as Certificated persons under this Act, saving an indemnity to persons who have paid curators beyond under specified circumstances.

18. Limits the effect of probates and letters of administration granted by Supreme Court to same effect as Certificates under this Act, except so far as in this Act provided. (query where the provision ?)

19, 20. Certificate of administration granted in foreign British State by

British Agent to have same effect as regards residents as other Certificate under this Act; and (20) as regards government securities shall operate throughout India.

21, 22. Certificate may be extended to operate on government securities and Bank Shares; and (22) on extension security may be required.

23. Act not to extend to British subject's property.

24. Interpretation clause.

An Act for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons.

Preamble.

Whereas it is expedient to consolidate and amend certain Acts now in force which provide greater security for persons paying to the representatives of deceased Hindoos, Mahomedans, and others not usually designated as British subjects, debts which are payable in respect of the estates of such deceased persons, and which facilitate the collection of such debts by removing all doubts as to the legal title to demand and receive the same: It is enacted as follows:—

Acts repealed.

I. Act XX. of 1841 *(for facilitating the collection of debts on successions, and for the security of parties paying debts to the representatives of deceased persons)*: so much of Act VIII. of 1842 as relates to the said Act XX. of 1841: Act X. of 1851 *(to amend Act XX. of* 1841 *for the administration of personal estate of deceased persons)*: and Act VIII. of 1854 *(to explain and amend Act X. of* 1851 *and Act XX. of* 1841) are hereby repealed; except as to certificates granted and acts done under the authority of the said laws before the passing of this Act.

No debt recoverable without a certificate.

II. No debtor of any deceased person shall be compelled in any Court to pay his debt to any person claiming to be entitled to the effects of any deceased person or any part thereof, except on the production of a certificate to be obtained in manner hereinafter mentioned or of a probate or letters of administration, unless the Court shall be of opinion that payment of the debt is withheld from fraudulent or vexatious motives, and not from any reasonable doubt as to the party entitled.

Certificate how to be obtained.

III. The District Court within the jurisdiction of which the deceased shall have ordinarily resided at the time of his death, or if at that time he had

no fixed place of residence then within the jurisdiction of which any part of the property of the deceased may be found, shall have authority to grant a certificate under this Act. The applicant in his petition shall set forth his title. The Court shall issue notice of application, inviting claimants, and fixing a day for hearing the petition, and upon the appointed day or as soon after as may be convenient, shall determine the right to the certificate and grant the same accordingly.

Effect of certificate

IV. The certificate of the District Court shall be conclusive of the representative title against all debtors to the deceased, and shall afford full indemnity to all debtors paying their debts to the person in whose favor the certificate has been granted.

Court may take security from grantee of certificate.

V. The Court may take such security as it shall think necessary from any person to whom it shall grant a certificate for rendering an account of debts received by him, and for indemnity of persons who may be entitled to the whole or any part of the monies received by virtue of such certificate whose right to recover the same by regular suit against the holder of the certificate is not affected by this Act.

Sudder Court may suspend certificate granted by District Court, or direct further proceedings.

VI. The granting of such certificate may be suspended by an appeal to the Sudder Court, which Court may declare the party to whom the certificate should be granted, or may direct such further proceedings for the investigation of the title as it shall think fit. The Court may also, upon petition, after a certificate shall have been granted by the District Court, grant a fresh certificate in suppression of the certificate granted by the District Court. Such fresh certificate shall not affect any payments made to the person to whom any former certificate may have been granted, without notice that the same has been superseded, but shall entitle the person named therein to receive all monies that may have been recovered under the first certificate from the person to whom the same may have been granted.

Sudder Court may grant fresh certificate in supersession of the cerficate granted by the District Court.

Local extent of power given by certificate.

VII. Every certificate shall give authority to the person to whom the same is granted throughout the Presidency within which the same is granted, and

no certificate subsequently granted in respect of the same property shall be valid or effectual, except as hereinafter mentioned.

Government Securities, Bank-Shares, and shares in Public Companies.

VIII. If the estate of the deceased shall include any Government Securities or Bank-shares, or any shares in any public Company, the certificate may empower the person certified as aforesaid to receive interest or dividends thereon, or on any of them, or to negotiate the same or any of them: in such case the certificate shall describe the securities and shares in respect of which such powers are given, and such powers shall not be vested by the certificate except by express words.

Appointment of Trustee in case of disputed succession.

IX. In the case of disputes among persons claiming to be jointly entitled to be proprietors of any Government Securities as the representatives of any deceased person, the District Court, whenever sufficient cause shall be shown, and on the request of any such claimant, may, so far as concerns the said securities, grant a certificate under this Act to such person as shall be from time to time appointed by the local Government to act as trustee under this Section, and thall specify in such certificate the several persons appearing to him to be such proprietors and their several shares; and the said trustee by virtue of such certificate shall be entitled to receive and give discharges for the interest accruing due on such securities, and shall account for and pay the sum to the several persons specified in the certificate to be thereunto entitled, according to the shares therein set forth, and shall be empowered to act in all other respects concerning the said securities as agent for such persons, and shall be entitled to receive such commission, not exceeding one per centum, on the sums received and paid by him, as the local Government shall think fit. Provided nevertheless that the right of any other person to recover the whole or any part of the monies so paid by regular suit against all or any of the persons to whom the same have been paid, shall not be affected by this Act.

Proviso.

Appropriation if securities be not settled within two years.

X. If any such disputes among persons claiming to be proprietors of Government Securities are not ended within two years from the date of the certificate granted under the last preceding Section, the said trustee may apportion the principal sum of the said se-

curities rateably among the parties appearing from the certificate to be proprietors thereof, and may apply for and receive new securities from the proper Officer appointed to issue the same in the respective names of the several parties certified to be entitled thereto; provided that such new securities shall be issued only according to the rules in use for the regulation and issue of such Government Securities, and the receipt of the said trustee for such new securities, by endorsement on the old securities or otherwise, shall be a legal discharge to the Government against the disputing parties claiming to be entitled to the several amounts for which such securities shall be issued. Provided always that, if the amount of any Government Securities in dispute or any part thereof shall not be sufficient to admit of their rateable division according to the rules applicable to the issue of such securities, the said trustee may sell and dispose of the disputed securities, or such part as shall be necessary under this provision, and apportion the proceeds thereof among the parties entitled to receive the same.

Proviso.

XI. Every certificate granted to the trustee appointed under Section IX. shall be taken to supersede and annul any previous certificate so far as such previous certificate relates to the said Government Securities.

Effect of certificate granted by trustee.

XII. When a certificate shall have been granted, in cases in which such certificate would be valid but for the previous grant of a certificate, all payments made to the person holding the latter certificate in ignorance of the grant of the previous certificate, shall be held good against claims under such previous certificate.

Payments under certificate void by reason of previous certificate.

XIII. With regard to the property of a deceased Hindoo, Mahomedan, or other person, not usually designated by the term "British subject," no certificate in respect of any such property shall be valid if made after a probate or letters of administration granted in respect of the same, provided assets belonging to the deceased were at the time of his death within the local jurisdiction of the Court granting the probate or letters of administration.

Certificate in respect of property of deceased Hindoos, Mahomedans, &c. void after grant of probate or letters.

XIV. Where a certificate shall have been granted, in cases in

Certain payments under certificate granted after grant of probate or letters, protected.

which such certificate would be valid but for a probate or letters of administration previously granted, all payments made to the person holding the certificate in ignorance of the previous granting of the probate or letters of administration, shall be held good against claims under the probate or letters of administration so previously granted.

XV. No probate or letters of administration shall be valid for the purpose of the recovery of debts or for the security of debtors, after a certificate granted in respect of the same property for which such probate or letters of administration shall have been granted, provided assets belonging to the deceased were at the time of his death within the jurisdiction of the Court granting such certificate.

Probate or letters void after grant of certificate.

Proviso.

XVI. Where probate or letters of administration may have been granted in cases in which such probate or letters of administration would be valid but for the previous grant of a certificate, all payments made in ignorance of the previous grant of the certificate, shall be held good against claims under such previous certificate.

Certain payments under probate or letters, granted after grant of certificate, protected.

XVII. Curators appointed under Act XIX. of 1841 who may be invested with certain powers which are conferred on persons obtaining certificates under this Act, shall not exercise any powers which, but for that Act, would lawfully belong to persons obtaining certificates, or to executors or administrators where a certificate, probate, or letters of administration has been actually obtained; but all persons who may have paid debts or rents to a curator authorized by a Court to receive the same, shall be indemnified, and the curator shall be responsible for the payment of the same to the person who has obtained a certificate, the executor or administrator as the case may be.

Curators prohibited from exercising certain powers.

XVIII. All probates and letters of administration granted by any Supreme Court of Judicature in cases in which any assets belonging to deceased persons were at the time of their deaths within the local jurisdiction of the Court granting the probate or letters of

Effect of probates and letters granted to representatives of British subjects.

administration, shall have the effect of probate and letters of administration granted in respect of the property of British subjects, but for the purpose of the recovery of debts only and the security of debtors paying the same, except so far as is in this Act provided.

Effect of certificates granted by British Representatives in Foreign States.

XIX. A certificate of administration granted by the British Representative accredited to any Foreign Prince or State, shall, as regards the residents within the Territories of such Prince or States, have the same effect in respect to Government Securities as a certificate granted to a Native subject of Her Majesty under the provisions hereinbefore contained.

Local extent of power given by such certificates.

XX. Every certificate of administration granted under the last preceding Section shall, as regards the Government Securities, give authority to the person to whom the same shall be granted throughout the British Territories in India, and have the same effect throughout the said territories as a certificate granted under Section VII. of this Act has within the Presidency within which the same is granted.

Extension of certificate.

XXI. Any Court or Officer authorized to grant a certificate may from time to time extend the same to any Government Security or Bank share not originally specified therein, and every such extension shall have the same effect as if the Government Security or Bank share to which the certificate shall be extended had been originally specified therein.

Security upon extension.

XXII. Upon the extension of a certificate, security may be required in the same manner as upon the original grant of a certificate.

Act not to apply to British subjects.

XXIII. Nothing in this Act contained shall be held to extend to the property of any person usually designated as a British subject.

Interpretation.

XXIV. The following words and expressions in this Act shall have the meaning hereby assigned to them, unless there be something in the subject or context repugnant to such construction (that is to say)—

Words importing the singular number shall include the plural

Number.

number, and words importing the plural number shall include the singular number.

Gender.

Words importing the masculine gender shall include females.

"District Court."

The words "District Court" shall mean the principal Civil Court of original jurisdiction of a Zillah or District.

"Sudder Court."

The words "Sudder Court" shall be deemed to include the highest Civil Court of Appeal in any part of the British Territories in India not subject to the control and superintendence of a Sudder Court.

MADRAS.—BOUNDARY MARKS.

ACT No. XXVIII. OF 1860.

[*Received assent of the G. G. on the 29th June*, 1860.

1. Repeals Act XX. 1855.

2. Empowers Collectors, &c. for prevention of disputes to fix boundaries of fields, &c. to require owners to clear jungle, and to set up boundary marks, &c.

3, 4. Empowers same officers to require owners of lands to register their rights and titles, &c.; and (4) to summon occupiers, &c. to attend them, &c. under penalty in case of default.

5, 6. Notice of survey to be served on owners or occupiers, &c. requiring them to clear boundaries, &c.; and (6) in default the survey officers may give orders for work to be done.

7. Dispenses with such notice when owners, &c. have signified their wish for boundary marks to be erected on part of Government.

8. Cost of setting up boundaries in unoccupied fields, &c to be charged to Government.

9. Persons wilfully erasing, &c. boundary marks to be liable to fine.

10, 11, 12. Boundary disputes at desire of parties interested may be referred to arbitration; (11) arbitrators to be nominated by parties concerned, or in certain cases by officer; and (12) if each side appoint an equal number, both are to appoint an additional one to make a majority.

13, 14, 15, 16. Settlement officer, &c. to define the matters referred and fix time for delivery of award, &c.; and (14) shall furnish arbitrators with information, &c. and (15) may enlarge time for making award; and (16) in case of death, &c. of person appointed may appoint new one.

17, 18, 19, 20, 21. Award to be submitted to settlement officer under signature of arbitrators; and (18) on application of party may be modified or corrected; and (19) may be remitted for re-consideration on grounds

specified; and (20) shall not be set aside except for misconduct or corruption of arbitrators; and (21) if not set aside, &c. settlement officer to pass decision according to award.

22, 23. In disputes relating to occupancy of ryots of Zemindary lands the consent of Government officer necessary to reference to arbitrator; but (23) settlement officer not incompetent to be arbitrator.

24. Copy of decision under award to be filed in Civil Court.

25. In case parties do not refer dispute to arbitration or fail to attend on reference, the officer to make an exparte investigation and record decision with grounds, subject to appeal by regular suit.

26. Proceedings ending by imposing fines to be subject to revision, &c.

27. Fines to be carried to credit of Government.

28, 29. Gives settlement officers, &c. necessary powers to enter, examine, &c. lands, &c.; and (29) persons molesting, obstructing, &c. them to be liable to fine.

30. Empowers G. in C. to invest subordinate officers with power under this Act.

31. Defines and limits powers of Deputy Directors of Revenue settlement being Sub-Collectors and Joint Magistrates.

32. Extends R. 9, 1822 and 7, 1828 to servants of the Survey and settlement Departments.

33. Extends 31st and 32d Sections to cases not finally decided at passing of Act.

An Act for the establishment and maintenance of Boundary Marks, and for facilitating the settlement of Boundary Disputes in the Presidency of Fort Saint George.

Preamble.

Whereas it is desirable, with a view to the better definition and security of landed property, the prevention of encroachments and disputes, and the identification of lands assessed to, or exempted from, the public revenue in the Presidency of Fort Saint George, that provision should be made for the establishment and maintenance of permanent marks to distinguish the boundaries of fields, holdings, estates, and villages, and for facilitating the settlement of Boundary disputes and claims: It is enacted as follows:—

Repeal of Act XX. of 1855.

I. Act XX. of 1855 is hereby repealed.

Collector &c. to fix boundaries of fields &c., and to require owners or occupants to clear boundary line and form and maintain Boundary marks &c.

II. It shall be lawful within the said Presidency for a Collector of land Revenue, or person exercising the powers of Collector, or for any Revenue Settlement Officer, and also for any other Officer appointed by the Government for the purpose, whenever he may be of opinion that such de-

marcation is necessary for the prevention or adjustment of disputes (or for conducting and perpetuating a survey or a settlement of land revenue), to fix the boundaries of fields, holdings, estates, or villages, and to require the owner or occupant of the field, holding, or estate, or the head man (by whatever name designated) of the village, to clear the boundary line where overgrown with jungle, and also to set up, form, and maintain Boundary marks, of such materials, and in such number and manner, as may be determined by such Officer under the direction of the Board of Revenue, or of the Director of Revenue Settlement, as the case may be, to be sufficient to distinguish the limits of the field, holding, estate, or village.

Collector to call upon owners or occupants to register and produce title deeds before survey.

III. It shall further be lawful for such Officer aforesaid to call upon the owners or occupants of lands about to be surveyed, and also on all persons claiming to have any rights or interests in such lands, to register the rights and titles exercised or claimed by them in the lands, and to produce before him for inspection and registry all grants, title deeds, and other documents connected with their claims.

Penalty for owner, &c. refusing or failing to attend, and for any person making false statement, &c.

IV. Any occupant or owner of land or other persons whose attendance may be considered necessary for the purposes of this Act, who, on being summoned by such Officer aforesaid, shall refuse or fail to attend at the demarcation, measurement, or assessment of his field, holding, or estate, or for the determining and marking the village boundary, or for the investigation and registry of his rights and claims in relation to such holding, estate, or property, or for the investigation and determination of any boundary—and any person who shall wilfully make any false statement, or shall wilfully refuse or neglect, when called upon, to give any information in his power with respect to a boundary under enquiry—shall be liable, by order of such Officer aforesaid, to a fine not exceeding fifty Rupees, to be levied by warrant under the hand of the Officer imposing it, in the same manner as a fine imposed by a Magistrate for a misdemeanor, and with a like alternative of imprisonment in default, as defined in Act II. of 1839.

V. When a survey is in progress notices shall be served on

Service of notices on owners and occupants.

the persons owning or occupying the fields, holdings, estates, or villages concerned, requiring them to clear the boundaries, and to set up, form, or repair, or to render such aid and labor as may be necessary to form or repair under the supervision of the Government Officers, such boundary marks as may be required, within a reasonable time, and in the event of such persons not being found in their village, the notice shall be posted in a conspicuous place in the village, which shall be held to be a sufficient service, notwithstanding it may afterwards appear that the owners or occupants were not correctly named or designated in the said notice.

In default of compliance, Officer may order erection or repair of necessary marks at the expense of the owners or occupants.

VI. In default of the owners or occupants of the fields, holdings, estates, or villages complying with such requisition, the said Officer may give directions for the erection and repair of the necessary Boundary marks, the cost of which shall be equitably apportioned on the fields, holdings, estates, or villages which they serve to distinguish, and shall be charged to the persons possessing a right of ownership or occupancy in such fields, holdings, estates, or villages, in such manner as such Officer aforesaid may consider just, and shall be levied in the same manner as arrears of land revenue.

Procedure when owners or occupants require erection of boundary marks at their expense.

VII. Whenever such owners or occupants of any fields, villages, holdings or estates, may generally signify their wish for the Boundary marks to be erected on the part of Government and the cost to be charged to them, or where in arrangements for the demarcation of the general survey of a village, estate, talook, or district, it may appear to such Officer aforesaid to be desirable to undertake the demarcation of lands under a uniform system by the Officers of Government, the Officer aforesaid may proceed, without the previous notice prescribed in Section V. to the clearing of boundaries, and the erection and repair of the Boundary marks, and may recover the cost of the same, if unpaid, in the manner described in Section VI.

In the case of unoccupied fields &c., cost to be charged to Government.

VIII. In the case of unoccupied fields, and of extensive hills and jungles in Government lands, the cost of marks for such fields, hills, and jungles, shall be charged to Government.

IX. Any person convicted before a Magistrate or person exercising Magisterial powers of wilfully and without lawful excuse erasing, altering, removing, or injuring any Boundary marks whatsoever, whether established under this Act or otherwise existing or any survey or other marks, or any marks set up for the purpose of the investigation or adjudication of disputes by an Officer of Government or any person acting under his orders, shall be liable to a fine not exceeding fifty Rupees for each mark so erased, removed, or injured, of which fine a portion not exceeding one-half may be awarded to the informer, and the remainder shall be chargeable with the cost of restoring the mark; the fine to be levied in the mode prescribed above in Section IV. Provided always that a Magisterial Officer shall have power to impose a fine under this Clause only to the amount to which he is competent to fine in misdemeanors under his general powers. Whenever it may not be possible to detect the person who erased, altered, removed, or injured such boundary or survey marks, the Officer as aforesaid may give directions for the restoration or repair of the marks, and may order the cost thereof to be charged to the owners or occupants of the adjacent lands in such shares as may appear to him proper, or apportioned among the Ryots of the village in proportion to their land assessment, as he may consider just and equitable, the same to be levied in the manner prescribed above in Section VI.

Penalty for erasing, &c. marks—a portion of which to be paid to informer.

Proviso.

Costs how to be recovered when offender is not known or unable to pay the fine.

X. If the parties interested in boundaries under dispute are desirous that the matter shall be referred to the final decision of one or more arbitrators, they may apply in writing to the Settlement or other Officer aforesaid either in person or by their agents specially authorized on their behalf, and the Settlement or other Officer aforesaid shall proceed to dispose of the case as hereafter provided.

Application for reference to arbitration.

XI. The arbitrator or arbitrators shall be nominated by the parties in such manner as may be agreed upon between them. If the parties cannot agree with respect to the nomination of the arbitrator or arbitrators, or if the person or persons nominated by them shall refuse to accept the arbitration, and the parties are

Nomination and appointment of arbitrators.

desirous that the nomination shall be made by the Settlement or other Officer aforesaid, such Officer shall appoint the arbitrator or arbitrators.

Majority of arbitrators to rule the decision.

XII. Where an equal number of arbitrators shall be appointed on each side, they shall collectively appoint another arbitrator to act with them, or in the event of their not agreeing or failing to appoint such further arbitrator, he shall be appointed by the Settlement or other Officer aforesaid—and in all matters the majority shall rule the decision.

Order of reference.

XIII. The Settlement or other Officer aforesaid shall, by an order under his signature, refer to the arbitrator or arbitrators the matters in dispute which he or they may be required to determine, and shall fix such time as he may think reasonable for the delivery of the award, the time so fixed being specified in the order.

Arbitrators to be furnished with information.

XIV. When a reference is made to arbitration by an order of the Settlement or other Officer, such Officer shall furnish the arbitrators, or so far as may be in his power procure for them, any information which his records or those of any public department may afford connected with the subject of enquiry. He shall, on the application of the arbitrators, summon any witnesses whom the arbitrators may call for, and whom the parties may not be able to produce before them without such process, and require the person so summoned to bring and produce before them all such books, papers, deeds, writings, maps, and plans as they shall require. Persons so summoned shall be subject to all the provisions of the laws in force regarding persons summoned as witnesses before the Collector when acting judicially.

Summoning witnesses.

Extension of time for making award.

XV. When the arbitrator or arbitrators shall not have been able to complete the award within the period specified in the order from the want of the necessary evidence or information or other good and sufficient cause, the Settlement or other Officer aforesaid may enlarge the period for the delivery of the award, if he shall think proper. Provided that an award shall not be liable to be set aside only by reason of its not having been completed within the period allow-

ed by the Settlement or such other Officer aforesaid, unless the award shall have been made after the issue of an order by the Settlement or other Officer aforesaid superseding the arbitration and revoking the insitution of the enquiry.

In case of death, incapacity, or refusal to act as arbitrators, others to be appointed instead.

XVI. If, in any case of reference to arbitration by an order of the Settlement or other Officer, the arbitrator or arbitrators shall die, or refuse, or become incapable to act, it shall be lawful for the Settlement or other Officer to appoint a new arbitrator or arbitrators in the place of the person or persons so dying, or refusing or becoming incapable to act.

Award how to be submitted to Settlement Officer.

XVII. When an award in any matter referred to arbitration shall be made, it shall be submitted to the Settlement or other Officer aforesaid under the signature of the person or persons by whom it may be made, together with all the proceedings, depositions, and other records, or authenticated copies thereof relating to the matter.

Settlement Officer may on application modify or correct an award in certain case.

XVIII. The Settlement or other Officer may, on the application of either party, modify or correct an award where it appears that a part of the award is upon matters not referred to the arbitrators, provided such part can be separated from the other part and does not affect the decision on the matter referred; or where the award is imperfect in form or contains any obvious error which can be amended without affecting such decision.

In what cases Settlement Officer may remit the award or any of the matters referred to arbitration, for re-consideration.

XIX. In any of the following cases the Settlement or other Officer aforesaid shall have power to remit the award or any of the matters referred to arbitration, to the re-consideration of the same arbitrator or arbitrators upon such terms as he may think proper: (that is to say)—

If the award has left undetermined some of the matters referred to arbitration, or if it determine matters not referred to arbitration;

If the award is so indefinite as to be incapable of execution;

If an objection to the legality of the award is apparent upon the face of the award.

XX. No award shall be liable to be set aside except on the

Award not to be set aside except on ground of corruption.
Application to set aside the award.

ground of corruption or misconduct of the arbitrators. Any application to set aside an award shall be made within ten days after the same has been submitted to the Settlement or other Officer aforesad.

XXI. If the Settlement or other Officer aforesaid shall not see cause to remit the award or any of the matters referred to arbitration for re-consideration in the manner aforesaid, and if no application shall have been made to set aside the award, or if the Settlement or other Officer as aforesaid shall have refused such application, the Settlement or other Officer aforesaid shall proceed to pass a decision according to the award, and after duly furnishing the parties with a copy thereof, he shall proceed to mark out the boundary in accordance therewith subject to the provisions contained in this Act. In evry case the decision given according to the award shall be final.

Boundary to be marked out according to award.

XXII. Where the claims and disputes relate to the occupancy of Ryots of Zemindary and Proprietary lands, the consent in writing of the Settlement or other Officer aforesaid on behalf of Government and of the Zemindars or Proprietors interested, shall be necessary for referring the disposal of such claims and disputes to arbitration, and the question of the disputed extent of such Zemindary estate shall be determined as between the Zemindar or Proprietor on one part, and the Government on the other, the Government being represented by the Collector, Settlement or other Officer aforesaid.

Reference to arbitration of claims and disputes regarding occupancy by Ryots of Zemindary lands &c.

XXIII. The Settlement or other Officer aforesaid shall not be considered incompetent by virtue of his office to undertake the duty of an arbitrator in cases in which the conflicting parties may be desirous to nominate him as such.

Settlement Officer not incompetent to act as arbitrator.

XXIV. A certified copy of every decision passed in accordance with the award of arbitrators under this Act by such Officer aforesaid shall be forwarded by him to the Civil Court and be filed on its records.

A certified copy of every decision passed in accordance with the award, to be filed in the Civil Court.

XXV. Where the conflicting parties may not signify their

Procedure when parties do not agree to refer their dispute to arbitration, &c.

agreement to refer the dispute to the final decision of arbitrators, or where any of the parties interested or concerned shall after due notice fail to attend for the investigation of the same, the Settlement or other Officer aforesaid shall proceed to investigate the claims, and in the case of any party failing to attend as aforesaid, shall make an *ex parte* investigation and after examination of the witnesses and documents shall record his decision, and the grounds for arriving at it, and after duly informing the parties of the same, he shall proceed to mark out the requisite boundaries in accordance with the decision, which, subject to the revision of the authority to whom the said Officer is immediately subordinate, shall be considered as the determination of all claims and disputes until set aside by a formal decree of a Civil Court. An appeal shall lie to the Civil Courts from this decision by regular suit, provided it be preferred within two calendar months from the passing of the same. Provided also that it shall be lawful for the Governor in Council, on just and reasonable cause for the same being shown, to extend the period for such appeal within such further period as may seem proper, and an order or endorsement under the signature of one of the Secretaries to Government shall be sufficient authority for the Civil Court to entertain such appeal beyond the limit above specified.

Proviso.

XXVI. The proceedings of Officers imposing charges or fines other than Magisterial, under Section IV. VI. VII. and IX. of this Act, shall be recorded in writing, and shall be subject to revision by the authorities to whom such Officers shall be immediately subordinate. An appeal shall also lie to the Board of Revenue or to the Director of Revenue Settlement, according to the authority to which the Officer imposing the charge or fine may be subordinate.

Proceedings of Officers imposing charges or fines.

XXVII. All fines levied under this Act shall be carried to the credit of Government, except when otherwise provided.

Appropriation of fines.

XXVIII. It shall be lawful for all Officers of Survey and Assessment, Revenue Officers, or other persons appointed by the Government for the purpose of investigating, settling, or marking boundaries

Officers empowered to enter and examine private lands.

of fields, holdings, villages, and estates, or measuring and assessing the same, and for all persons acting in aid and under orders of such Officers, whenever it may be necessary in the performance of their duty—to enter, examine, or measure, without let or hindrance, all lands whatever, whether such lands be the property of Government or of private Companies or individuals; and such Officers aforesaid, as well as workmen or other persons acting in aid of and under their orders, are hereby indemnified for what they or any of them shall do under the provisions of this Act.

Punishment for obstructing Officers, &c.

XXIX. If any person shall obstruct, molest, or in any way interfere with any public servant conducting the demarcation, measurement, or assessment of lands, or performing other duties provided for in this Act, such person shall be liable, on conviction before a Magistrate or person exercising Magisterial powers, to a fine not exceeding fifty Rupees, or, in default, imprisonment not exceeding two months for the first offence, and for a repeated offence, to a fine not exceeding one hundred and fifty Rupees, or imprisonment not exceeding six months. Provided however that a Magisterial Officer shall have power to punish under this Clause, only to the extent to which he is empowered to punish in cases of ordinary misdemeanor, under his general powers.

Proviso.

Government may invest any subordinate in the Revenue or Survey Department with powers under this Act.

XXX. It shall be lawful for the Governor in Council to invest any of the Subordinates of the ordinary Revenue establishments, or of the Settlement or Survey Departments, with any portion of the powers conferred under this Act.

Powers of Deputy Director of Revenue Settlement.

XXXI. Any Deputy Director of Revenue Settlement, being a Sub-Collector and Joint Magistrate, shall be competent to exercise within the District within which he shall be employed, any of the powers ordinarily exercised by a Sub-Collector and Joint Magistrate within his charge: provided however that such Deputy Director shall only have cognizance of cases and offences connected with the duties of the Survey or the Settlement Department. In cases coming under Regulation IX. 1822 of the Madras Code tried before a Deputy Director under this Section, the power of control and revision provided by Clause 3 Section III. Regulation VII. 1828 of

the same Code shall be exercised by the Director of Revenue Settlement.

Servants of the Survey and Settlement Departments subject to Regulations IX. 1822 and VII 1828.

XXXII. All Servants of the Survey and Settlement Departments shall be subject to the provisions of the said Regulations IX. 1822 and VII. 1828 of the Madras Code, and those Regulations shall apply to the Survey and Settlement Departments in the same way as they apply to the ordinary Revenue Department.

Two preceding Sections to apply to all pending cases.

XXXIII. The provisions of the two preceding Sections shall apply to all cases not finally decided at the time of the passing of this Act.

ARMS AND AMMUNITION.

ACT No. XXIX. OF 1860.

[*Received assent of the G. G. on the 30th June,* 1860.

Continues Act XXVIII. 1857 in force for one month.

An Act to continue in force Act XXVIII. of 1857.

Preamble.

Whereas it is expedient that Act XXVIII. of 1857 (*relating to the importation, manufacture, and sale of Arms and Ammunition and for regulating the right to keep or use the same*) should continue in force for a further period of one month: It is enacted as follows:—

Act XXVIII. of 1857 continued for one month.

I. Act XXVIII. of 1857 shall continue in force for a further period of one Calendar month from the 30th June 1860.

KOONCH AND CALPEE IN JALOUN.

ACT No. XXX. OF 1860.

[*Received assent of the G. G. on the 5th July,* 1860.

Recites expediency of bringing them under the General Regulations.

1, 2. Repeals Bengal Reg. VIII. 1805 as respects Koonch and Calpee and extends Regulations to those places; (2) saving proceedings pending.

3, 4, 5. Transfers all suits determined before this Act, and (4) all appeals and proceedings pending, and (5) all extant decrees, to the ordinary Courts.

An Act to remove the Pergunnah of Koonch and Calpee in Zillah Jaloun from the operation of the general Regulations.

Preamble.

Whereas the Zillah of Jaloun, with the exception of the Pergunnahs of Koonch and Calpee, has never been brought under the operation of the general Regulations; and whereas it is expedient that those Pergunnahs should, for the sake of uniformity and public convenience, be administered on the same system as prevails in the rest of the Zillah: It is enacted as follows:—

Koonch and Calpee removed from the operation of the general Regulations.

I. Regulation VIII. 1805 of the Bengal Code (*for extending to the conquered Provinces situated within the Dooab, and on the right bank of the river Jumna, and to the Territory ceded to the Honorable the English East India Company in Bundelkund by the Peishwa, such of the Laws and Regulations established for the internal Government of the Provinces ceded by the Nawaub Vizier to the Honorable the English East India Company, as have not been already extended to those Territories, and for revising and amending certain parts of the said Laws and Regulations*), in so far as it relates to the Pergunnahs of Koonch and Calpee in the Zillah of Jaloun, is hereby repealed, and the said Pergunnahs shall be subject to the same Laws as are now or may hereafter be in force in the said Zillah.

Suits and proceedings pending at the passing of the Act.

II. All suits and proceedings which, at the time of the passing of this Act, shall be pending in any Court or before any Officer in the said Pergunnahs, shall be heard and determined in the same manner as if the said Pergunnahs had never been brought under the operation of the general Regulations.

Suits determined before the passing of this Act, but which may be remanded by an Appellate Court.

III. Any suit which, before the passing of this Act, had been determined and which hath been or shall be remanded by any Appellate Court, shall be tried before the Court which, for the time being, would be competent to try such a suit if instituted after the passing of this Act.

Appeals or proceedings pending before the Sudder Court or Sudder Board.

IV. All appeals or proceedings now pending in the Court of Sudder Dewanny Adawlut or in the Court of Nizamut Adawlut or before the Sudder Board of Revenue for the North-Western Provinces,

shall be determined by such Court or Board in the same manner as if this Act had not been passed; and all applications for execution of decrees or orders which, but for the passing of this Act, would have been made to any Court or Officer existing at the period abovementioned, shall be made to the Court or Officer that would have had jurisdiction in respect of the matter in dispute, had the suit or proceeding been instituted after the passing of this Act.

Applications for execution of decrees or orders in pending suits or proceedings.

V. All appeals from decrees or orders passed before the passing of this Act shall be received, heard, and determined by the Courts or Officers who would have had jurisdiction over such appeals, had the decrees or orders to which they relate been passed after the passing of this Act.

New appeals from decrees or orders passed before the passing of this Act.

ARMS AND AMMUNITION.

ACT No. XXXI. OF 1860.

[*Received assent of the G. G. on the 17th July*, 1860.

Recites expediency of regulating the manufacture, &c. of arms, &c. and the right to keep, &c. the same and of giving power to disarm Districts, &c.

1. Continues Act XXVIII 1857 to 1st of October 1860.

2, 3, 4. No person in India shall unless authorized by Government manufacture, repair, &c. any Cannon, &c under penalty of fine and imprisonment; nor (3) have without permission of Government, in his possession any Cannon, &c. under penalty of fine and imprisonment; (4) the authorization and permission to be in writing and signed by Secretary to Government and a fee of 50 Rs. to be paid for it.

5. No person shall manufacture, &c. or keep for sale arms of specified kinds, nor percussion caps, sulphur, &c. nor other ammunition without license, under penalty of fine and imprisonment and ferfeiture of the arms, &c.

6. Enumerates the prohibited arms.

7, 8, 9, 10. Licenses under this Act may be granted by Magistrates, &c. are (8) to be on 10 Rupees stamps; for sulphur to be separate; and (9) licensed person to place a Board with notification in his shop, &c.; under (10) penalty of 100 Rupees.

11. Person falsely putting up Board as a licensed person to be liable to fine 100 Rupees.

12. License to be in force for a year only.

13. Persons knowingly purchasing arms, &c. of unlicensed persons to be liable to fine 100 Rupees.

14. Licensed persons to keep an account of stock in trade, &c. and of names, &c. of purchasers, which book shall be open to inspection of Magistrate; and failing or omitting, to be liable to fine, forfeiture and loss of license.

15. Empowers Magistrate to enter premises of licensed manufacturer, &c. and to inspect stock, &c.

16. License may be revoked, &c. by officer.

17, 18, 19. Prohibits importation by sea or land of Cannon, &c. arms and ammunition except under license; and (18) establishes penalty of imprisonment, fine and confiscation; but (19) requirement of license and penalty not to extend to importations by private persons for their own private use.

20, 21. Empowers G. G. in C. and local Governments to seize sulphur, except (21) when kept in reasonable quantities for sale or medicinal purposes.

22, 23, 24. Authorizes G. in C. and local Governments to prohibit transport of arms, &c. from one part of India to another except as may be permitted by order; and (23) provides penalties for violation of order; but (24) prohibition and penalties not to extend to arms, &c. transported by persons for own private use.

25. Authorizes Police and others to arrest any person conveying, &c. Arms, &c in manner, &c. to afford grounds of suspicion of unlawful intent, and if arrested by other than Police to be taken to Police Officer.

26, 27. Makes person armed not having license liable to be disarmed, by Magistrate, &c. if being armed is deemed dangerous to the public peace; except (27) officers, &c. in H. M.'s Service, Volunteers, Police and Revenue Officers and others specially exempted by Government.

28, 29, 30. Legalizes licenses granted by Magistrate, &c. specially authorized, &c. (29) such licenses to be in form prescribed by G. G. in C.; and (30) to contain particulars.

31. Empowers Magistrate to search for specified kinds of arms, &c. for security of the peace, recording his grounds; such search to be in presence of specified persons.

32. Government of India or local Government may order any province, &c. to be disarmed, (c. 5,) such order to be published in Gazette and (c. 2,) in proclaimed provinces, &c. no person to have arms, &c. without license, which (c. 3,) may be granted by Magistrate, &c. revoked, &c.; and (c. 4,) such licenses may be expressed to be in force for journey, &c. (and c. 5 ante,) and every person having arms without license while the province is under proclamation to be liable to imprisonment and fine, and his premises may be searched, (c. 7,) by Magistrate, &c.; but (c. 8,) this Section not to extend to specially exempted persons.

33. Provides penalty in case of arms being found on search made under two last sections.

34. Provides fine and imprisonment against persons assaulting, &c. any person in execution of this Act.

35, 36, 37, 38. The powers of Magistrates, &c. under this Act to be exercised only up to the limits of their general authority; and (36) subject

to this rule, all offences to be tried in place where committed, but (37) Assistants may have deputation of Magistrate in particular cases, same power to fine as Magistrate, and (38) same powers by order of Government, subject to appeal.

39. Magistrate may call any case from his Assistants.

40, 41, 42, 43. Provides exclusive jurisdiction of Supreme Court for offences by European British subjects; and (41) the summary powers of Magistrates in Presidency towns, whose convictions &c. (42) shall not be quashed for error of form or procedure &c.; and (43) preserves local jurisdiction of Supreme Court.

44, 45, 46, 47. Penalties may be levied by distress and sale of offender's goods; and (45) offender may be detained until return of distress warrant; and (46) finally committed to prison if distress cannot be levied on goods, &c. unless (47) he be an European B. subject, on whom fine is to be levied through Civil Court.

48. Authorizes reward out of fine to informers.

49. Limits action for any thing done under this Act to 3 months after thing done, and requires one month's notice.

50. Empowers Government to withdraw any place &c. from the operation of the Act.

51. Act not to alter any existing regulations as to licenses.

52. Hard labor not to be commuted to fine under B. R. 2, 1834.

53. Licenses in Presidency Town may be granted by Commissioner of Police.

54. Interprets the word "India."

55. Act to commence from 1st Oct. 1860.

An Act relating to the manufacture, importation, and sale of Arms and Ammunition, and for regulating the right to keep and use the same, and to give power of disarming in certain cases.

Preamble.

Whereas it is expedient to regulate the manufacture, importation, and sale of Arms and Ammunition and the right to keep and use the same, and also to give power of disarming Districts and places in certain cases: It is enacted as follows:—

Act XXVIII. of 1857 continued in force till 1st October 1860.

I. Act XXVIII. of 1857 shall continue in force until the 1st day of October 1860.

Manufacture of cannon, &c. without authority of Government prohibited.

II. No person in India, unless authorized by Government, shall manufacture or assist in manufacturing any cannon, howitzer, or mortar, and whoever not being so authorized shall manufacture or assist in manufacturing any cannon, howitzer, or mortar, shall be

Penalty.

liable to a fine not exceeding one thousand Rupees, and to imprisonment with or without hard labor for a period not exceeding three years.

Penalty for possession of cannon, &c. without permission.

III. If any person in India shall, without the permission of the local Government, have in his possession any cannon, howitzer, or mortar, except in the course of his duty as a public Officer of Government, he shall be liable to a fine not exceeding five hundred Rupees for every such cannon, howitzer, or mortar, and in default of payment thereof may be imprisoned with or without hard labor for a period not exceeding one year.

Exception.

The provisions of this Section shall not extend to any cannon, howitzer, or mortar, forming part of the ordinary armament of any ship or vessel.

Permission to possess cannon, &c., to be in writing, and to specify number permitted to be possessed.

IV. Whenever the local Government shall permit any person to possess any cannon, howitzer, or mortar, such permission shall be in writing and signed by the Secretary to the Government, and shall specify the number of cannons, howitzers, or mortars permitted to be possessed by such person. A fee of fifty Rupees shall be paid on the delivery of such written permission.

Manufacturing or dealing in arms and ammunition without license prohibited.

V. No person shall manufacture, repair, or sell, or keep or expose for sale, any arms of the description hereinafter mentioned, or shall manufacture or sell, or keep or expose for sale, percussion caps, sulphur, gunpowder, or other ammunition, except under a license to manufacture or deal in arms or percussion caps, sulpher, gunpowder, or other ammunition as the case may be, and expose for sale, any of such arms, or any percussion caps, sulphur, gunpowder, or other ammunition without such license as aforesaid, or contrary to any of the conditions contained in such license, shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding two years, or to both fine and imprisonment, and all arms, percussion caps, sulphur, gunpowder, or other ammunition belonging to the offender shall be forfeited if the Court or Officer before whom the offender is convicted shall so adjudge.

Penalty.

Specification of arms referred to in Section V.

VI. The following are the arms referred to in Section V. namely, fire-arms, bayonet, sword, dagger, spear, and spear-head.

Licenses by whom to be granted.

VII. Licenses to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition may be granted by a Magistrate, or by an Officer authorized by the Governor-General of India in Council or by the Executive Government to grant such licenses.

Form &c. of license.

VIII. Licenses granted under the last preceding Section shall be in the form prescribed by the Governor-General of India in Council, and shall be engrossed on a stamp paper of the value of ten Rupees. The stamp paper shall be furnished by the person applying for the license. A separate license shall be taken out for the sale of sulphur.

License to affix a board in a conspicuous part of his shop.

IX. Every person to whom such license shall be granted shall affix a board in a conspicuous part of his shop or usual place of business, and shall cause to be painted thereon in large letters in the vernacular of the District the words "License to manufacture or deal in arms or percussion caps, sulphur, gunpowder, or other ammunition," as the case may be.

Penalty for omission.

X. If any person to whom such license shall be granted shall omit to put up a board inscribed as above in a conspicuous part of his shop or usual place of business, he shall be liable to a fine not exceeding one hundred Rupees.

Penalty for putting up a board without a license.

XI. If any person, to whom such license shall not have been granted in the manner prescribed, shall put up such board as aforesaid in his shop or usual place of business, he shall be liable to a fine not exceeding one hundred Rupees.

Duration of license.

XII. Licenses granted under Section VII. of this Act shall be in force for one year from the date thereof.

Penalty for knowingly purchasing arms or ammunition from an unlicensed person.

XIII. Any person knowingly purchasing arms of the description mentioned in Section VI. or any percussion caps, sulphur, gunpowder, or other ammunition from any person not licensed, shall be liable to a fine not exceeding one hundred Rupees.

XIV. Every person licensed to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition, shall enter in a book to be kept by him for that purpose, an account of all the stock-in-trade which he may from time to time have in his possession or under his control, and also the name and address of every purchaser of arms, percussion caps, sulphur, gunpowder, or other ammunition sold by him, together with the nature, description, and quantity of such arms, percussion caps, sulphur, gunpowder, or other ammunition. Such book shall be open at all times to inspection by the Magistrate or other Officer duly authorized by Government in that behalf, by whom copies may be taken of all entries therein contained. If any such person shall omit or fail duly to keep such book, or to make therein all such entries as are hereby required, or if any person shall prevent or obstruct the inspection of such book or shall make a false entry therein, he shall be liable for every such offence to a fine not exceeding five hundred Rupees, in addition to double the value of any arms, percussion caps, sulphur, gunpowder, or other ammunition sold of which he shall fail to make such entry or respecting which he shall make a false entry; and if the offender be licensed to manufacture or deal in arms, percussion caps, sulphur, gunpowder, or other ammunition, he shall also forfeit his license if the Magistrate shall so adjudge.

Licensed manufacturers or dealers to enter in a book an account of stock-in-trade, names of purchasers, &c.

Inspection of book.

XV. The Magistrate or other Officer authorized by Government as aforesaid may at any time enter the premises in which arms, percussion caps, sulphur, gunpowder, or other ammunition shall be manufactured or kept by any licensed manufacturer or dealer in arms or percussion caps, sulphur, gunpowder, or other ammunition, in order to inspect the stock-in-trade of such manufacturer or dealer, and if any such manufacturer or dealer shall intentionally conceal from such Magistrate or other Officer as aforesaid any part of his stock-in-trade, or shall wilfully refuse to point out where the same is kept, he shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding two years, or to both fine and imprisonment, and any arms, percussion caps, sulphur, gunpow-

Magistrate or other Officer may inspect dealer's premises.

der, or other ammunition belonging to such person may be seized and shall be confiscated if the Magistrate shall so adjudge.

Revocation of license to manufacture or deal in arms or ammunition.

XVI. Any license granted under the provisions of Section VII may be granted subject to such conditions as shall be thought necessary, and may be revoked or suspended by the Officer authorized to grant such licenses whenever he may think fit.

Cannon and arms and ammunition not to be imported without license.

XVII. No cannon, howitzer, or mortar, and no arms, percussion caps, sulphur, saltpetre, gunpowder, or other ammunition, shall be imported either by sea or by land into any part of the territories in the possession and under the Government of India except under a license from the Governor-General of India in Council or from some Officer authorized in that behalf by the Governor-General of India in Council.

Penalty for importation without license.

XVIII. If any person shall import or attempt to import without such license either by sea or by land into any part of the said territories, any cannon, howitzer, or mortar, or any arms, percussion caps, sulpher, saltpetre, gunpowder, or other ammunition, or shall aid or assist in such importation or in such attempt to import, or shall knowingly conceal or assist in concealing any cannon, howitzer, or mortar, or any arms, percussion caps, sulpher, saltpetre, gunpowder, or other ammunition, imported without such license, he shall be liable to imprisonment with or without hard labor for any term not exceeding three years, and also to a fine not exceeding one thousand Rupees, and the articles so imported shall be confiscated if the Magistrate shall so adjudge.

Importation of arms and ammunition for private use.

XIX. The provisions of the last two preceding Sections shall not extend to arms, percussion caps, gunpowder, and other ammunition imported by any person in reasonable quantities for his own private use; but the Collector of Customs may at any time detain any such articles, if he shall think it necessary, until he shall receive the orders of Government.

Seizure and detention of sulphur by Government.

XX. The Governor-General of India in Council or the local Government may at any time seize all sulphur in the possession of any person, and detain the same for such time as they may deem necessary for the public safety.

Exception.

XXI. Nothing in this Act shall apply to sulphur kept or sold in reasonable quantities for medicinal purposes.

Government may prohibit transport of arms, ammunition, military stores, &c.

XXII. The Governor-General of India in Council may by order prohibit the transport of any arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, or any particular description of arms, ammunition, or military stores from one part of India to another, or the transport thereof in any particular direction to be specified in the order, or prohibit the transport thereof except according to such rules and conditions as may be specified in the order, and the local Government of any Presidency or place shall have the like power within the territories under its Government.

Penalty for prohibited transport.

XXIII. If any person shall transport or cause to be transported or shall attempt to transport or cause to be transported, or shall aid in transporting any arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, contrary to such order, or to the rules and conditions specified therein, he shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for a period not exceeding three years, or to both fine and imprisonment, and the articles transported or attempted to be transported shall be confiscated. If any person shall by concealment or other device transport or cause to be transported, or attempt to transport or cause to be transported, such arms, military stores, lead, sulphur, saltpetre, gunpowder, or other ammunition, he shall, in addition to the fine hereby provided, be liable, upon conviction, to imprisonment with or without hard labor for a term not exceeding seven years.

Provisions of two preceding Sections not to apply to Districts not ordered or liable to be disarmed under Section XXXII.

XXIV. Nothing in the last two preceding Sections shall extend to arms, percussion caps, gunpowder, and other ammunition transported by any person in reasonable quantities for his own private use in any District or place not ordered or liable to be disarmed under Section XXXII. of this Act.

Persons conveying arms, ammunition, &c. under suspicious circumstances may be apprehended without warrant.

XXV. If any person shall be found carrying or conveying any arms, military stores, percussion caps, sulphur, gunpowder, or other ammunition, in such a manner or under such circumstances as to afford just grounds of suspicion that the

same may be used for any unlawful purpose dangerous to the public peace, it shall be lawful for any Magistrate, Deputy Magistrate, or Assistant to Magistrate, or Police Officer, or for any other person, to apprehend without warrant the person so carrying or conveying such arms, military stores, percussion caps, sulphur, gunpowder, or other ammunition, and to detain such person in custody in order that he may be dealt with according to law.

Procedure apprehended by other than Magistrates, &c.

If any person be apprehended by a person not being a Magistrate, Deputy Magistrate, or Assistant to a Magistrate, or Police Officer, he shall be delivered over as soon as possible to a Police Officer; and all persons apprehended by or delivered to a Police Officer under the provisions of this Section shall be carried before a Magistrate or other Officer competent by law to punish him for the offence or to commit him for trial.

Penalty for going armed or carrying arms without a license.

XXVI. If any person shall go armed with or carry any arms of the description mentioned in Section VI. of this Act without having obtained a license from a Magistrate or other Officer authorized by the Governor-General of India in Council or the local Government authorizing him to carry arms, he shall be liable to be disarmed by any Magistrate, Joint Magistrate, or Deputy Magistrate, or Assistant to a Magistrate, or by a Police Officer, if in the judgment of such Magistrate or other Officer as aforesaid it is dangerous to the public peace to allow such person to go armed or to carry arms.

Exemptions.

XXVII. The provisions of the last two Sections do not apply to—

Commissioned, Non-Commissioned, and Warrant Officers, Soldiers, and Sailors.

Officers, Non-Commissioned Officers, Warrant Officers, Soldiers, and Sailors in the Military or Naval Service of Her Majesty, in respect of arms and ammunition kept by them for use in the public service.

Volunteers.

Members of Volunteer Corps in respect of such arms and ammunition.

Police and Revenue Officers.

Police and Revenue Officers and other persons in respect of arms and ammunition furnished by Government for use in the public service or provided by themselves with the sanction of Government for such use.

Other persons.

Such other persons as the local Government may think fit to exempt from such provisions.

Grant and revocation or suspension of licenses to carry arms.

XXVIII. Licenses to carry arms may be granted by any Magistrate or other Officer specially authorized by the Governor-General of India in Council or the local Government to grant such licenses, and may be revoked or suspended by any Officer authorized to grant such license whenever he may think fit.

Form of license.

XXIX. The license shall be in the form prescribed by the Governor-General of India in Council.

License to state name of grantee, and number of followers to whom it is to apply.

XXX. The license shall state whether its operation is limited to the person in whose favor it is granted and whom it shall mention by name, or whether it extends to any of his followers. In the latter case the number of the followers of such person licensed to carry arms and the number and description of arms to be carried by each of such followers shall be specified.

Search and seizure of arms and ammunition in certain cases.

XXXI. Whenever a Magistrate shall have reason to believe that any person residing within the limits of his jurisdiction has in his possession any arms of the description mentioned in Section VI. of this Act, or percussion caps, sulphur, gunpowder, or other ammunition for any unlawful purpose or that such person cannot in the judgment of the Magistrate be left in the possession of any such arms, percussion caps, sulphur, gunpowder, or other ammunition without danger to the public peace, it shall be lawful for such Magistrate, having first recorded the grounds of his belief, to cause a search to be made of the house or premises occupied by such person or on which the Magistrate may have reason to believe such arms, percussion caps, sulphur, gunpowder, or other ammunition are to be found, and to seize and to detain the same in safe custody for such time as he may deem necessary. The search in such case shall be conducted by or in the presence of the Magistrate or by or in the presence of a Joint or Deputy Magistrate, or a European Assistant, or by or in the presence of some European Officer, Civil or Military, to be specially empowered by Government.

XXXII. *Clause* 1. It shall be lawful for the Governor-

Executive Government may order any District or place to be disarmed.

General of India in Council or for the Executive Government of any Presidency or for any Lieutenant Governor, or with the sanction of the Governor-General in Council for the Chief Commissioner or Commissioner of any Province, District, or place subject to their administration respectively, whenever it shall appear necessary for the public safety, to order that any Province, District or place shall be disarmed.

Clause 2. In every such Province, District, or place as well as in any Province, District, or place in which an order for a general search for arms has been issued and is still in operation under Act XXVIII. of 1857, it shall not be lawful for any person to have in his possession any arms of the description mentioned in Section VI. of this Act, or any percussion caps, sulphur, gunpowder, or other ammunition without a license.

Possession of arms and ammunition without license prohibited.

Clause 3. Licenses to have in possession any arms of the description mentioned in Section VI. or percussion caps, sulphur, gunpowder, or other ammunition may be granted by any Magistrate or other Officer specially authorized by the Governor-General of India in Council or the local Government to grant such licenses, and may be revoked or suspended by any Officer authorized to grant such licenses whenever he may think fit. The license shall be in the form prescribed by the Governor-General of India in Council or by the local Government.

Grant of licenses, &c.

Clause 4. If any person shall have a license from the Magistrate of the District or place at which he resides, or may be, to carry on a journey such arms as the Magistrate may consider reasonable for his private use, and shall obtain from such Magistrate a license stating the name and address of such person, the route by which he intends to proceed, the time which such journey is expected to occupy, and the arms which he is permitted to carry, such license shall have the same force and effect, according to its tenor, in every District or place specified therein, as if leave to go armed had been granted by the Magistrate of such District or place.

License to travellers to carry arms.

Clause 5. In every Province, District, or place which shall be ordered to be disarmed, the order of the Governor-General of India in Council or of the

Publication of order for disarming.

local Government shall be published in the Calcutta Gazette or in the Gazette in which the orders of the Governor-General of India in Council or of the local Government making the order, as the case may be, are usually published, and shall also be made public in such other manner as the Governor-General of India in Council or the local Government shall direct.

Penalty.

Clause 6. Every person who, after the expiration of the time mentioned in such order in any Province, District, or place to which this Section shall be extended, or who after the 1st day of October 1860 in any Province, District, or place in which an order for a general search for arms has been issued and is still in operation as aforesaid, shall have in his possession or custody any such arms as aforesaid, or any percussion caps, sulphur, gunpowder, or other ammunition without such license as aforesaid, shall be liable to be imprisoned with or without hard labor for a term not exceeding two years, and also to a fine not exceeding one thousand Rupees, and it shall be lawful for the Magistrate or other Officer mentioned in the order to search or cause to be searched any house or premises occupied by such person, or in which the Magistrate may have reason to believe that any such arms, percussion caps, sulphur, gunpowder, or other ammunition are concealed.

Search.

Clause 7. The search shall be conducted by or in the presence of the Magistrate or by or in the presence of a Joint or Deputy Magistrate or European Assistant, or by or in the presence of some European Officer, Civil or Military, appointed by Government to conduct such searches; and all such arms, percussion caps, sulphur, gunpowder, and other ammunition found on such search shall be confiscated.

Exemptions.

Clause 8. The Provisions of this Section shall not extend to any person or persons exempted by the authority of the Governor-General of India in Council or of the local Government of the proclaimed District, or by any European Officer serving in such District duly authorized by the local Government on that behalf.

Penalty for refusing to produce or for concealing arms, &c. searched for.

XXXIII. If on any such search being made under the provisions of either of the last two Sections, any person having in his possession or power any such arms, percussion caps, sulphur, gunpowder or other ammunition, or knowing where such arms, percussion

caps, sulphur, gunpowder, or other ammunition are concealed, shall refuse to produce or point out the same to the Officer making the search, or if any person shall intentionally conceal or attempt to conceal any such arms, percussion caps, sulphur, gunpowder, or other ammunition, such person may be apprehended without warrant, and shall be liable to imprisonment with or without hard labor for a term not exceeding two years, and also to a fine not exceeding one thousand Rupees.

Penalty for assaulting or resisting any person in the execution of any power vested in him by this Act.

XXXIV. Whoever assaults or resists, or aids or assists any person in assaulting or resisting any person in the execution of any power vested in him by this Act, shall be liable to a fine not exceeding two hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six calendar months, or to both fine and imprisonment.

Cognizance of offences.

XXXV. Except as otherwise provided, all offences under this Act may be tried by any Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, unless the period of imprisonment to which the offender may be liable exceed that which the Magistrate, Joint Magistrate, or other Officer as aforesaid is competent to award under the laws for the time being in force in the Presidency or place in which such Magistrate, Joint Magistrate, or other Officer as aforesaid is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Magistrate, Joint Magistrate, or other Officer as aforesaid, the offender shall be committed for trial before the Sessions Judge, if the evidence given before such Magistrate, Joint Magistrate, or other Officer as aforesaid shall appear to such Magistrate, Joint Magistrate, or other Officer sufficient for the conviction of the accused.

District in which certain offences shall be tried.

XXXVI. Except as aforesaid, all offences declared to be punishable under this Act with fine, or fine and imprisonment, may be tried in the District or place in which the offence was committed, or in which the person charged with the same is apprehended.

Magistrate may refer offences punishable with fine to his Assistants for trial.

XXXVII. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants, and in such case every such Assistant may exercise

all the powers vested in a Magistrate by any law for the time being in force, subject to all the rules applicable to criminal cases deputed to such Assistant acting judicially.

Local Government may authorize Assistants to exercise such powers without reference by Magistrate.

XXXVIII. The local Government may give general authority to any such Assistant to exercise, without reference by a Magistrate, any of the powers which they are hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant within one month from the date of conviction.

Magistrate may call for any case pending before such Assistant.

XXXIX. A Magistrate may at any time call from any of his Assistants, any case pending before such Assistants.

Jurisdiction over British subjects committing certain offences beyond the limits of Supreme Court.

XL. If any offence which by this Act is declared to be punishable with fine and imprisonment or imprisonment only, shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender shall be liable, upon conviction before one of the said Supreme Courts of Judicature, to the punishment to which by this Act the offender is declared to be liable upon conviction.

Summary jurisdiction in respect of certain offences committed within the limits of Supreme Court.

XLI. If any offence which by this Act is declared to be punishable with fine or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the jurisdiction of any Court of Judicature established by Royal Charter, such offence shall be punishable upon summary conviction by any Police Magistrate of the Presidency Town or Station in which such Court is held.

Conviction to be quashed on merits only.

XLII. No conviction, order, or judgment under the last preceding Section shall be quashed for error of form or procedure, but only on the merits; and it shall not be necessary to state on the face of the conviction, order, or judgment the evidence on which it proceeds, but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken,

supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

All other offences committed within limits of Supreme Court punishable by such Court.

XLIII. All other offences punishable under this Act which shall be committed within the local limits of any Court of Judicature established by Royal Charter, shall be punishable by such Court.

Levy of forfeiture and penalties by distress.

XLIV. All forfeitures or penalties imposed under the authority of this Act for offences punishable by any Magistrate of Police or by any Magistrate, or person lawfully exercising the powers of a Magistrate, or Assistant Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant under the hand of any of the abovenamed Officers.

Procedure until return is made to warrant of distress.

XLV. In case any such forfeitures or penalties shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment, if distress not sufficient.

XLVI. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer may by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such Officer for any term not exceeding two calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Levy of fines from European British subjects.

XLVII. If the offender shall be a European British subject, the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and

the amount of the fine and costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Rewards to informers.

XLVIII. Any fine or penalty levied from any person convicted of an offence under this Act, or any portion of such fine or penalty, may be awarded to the person on whose information the conviction shall take place.

Notice and limitation of suits.

XLIX. No suit, action, or other proceeding shall be commenced or prosecuted against any person for any thing done in pursuance of this Act without giving to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

Parts of District may be withdrawn from the operation of the Act and again made subject to it.

L. It shall be lawful for the Governor-General of India in Council or for the Executive Government of any Presidency or for any Lieutenant-Governor, or with the sanction of the Governor-General of India in Council for any Chief Commissioner of any province from time to time to withdraw from the operation of all or any of the provisions of this Act any part or parts of any District or place; and in like manner, as occasion shall require, to subject the same again to the operation of all or any of the provisions of this Act.

Act not intended to alter or affect any other law relating to licenses.

LI. Nothing in this Act shall be construed to alter or affect the provisions of any law or other Regulation for the time being in force relating to Licenses.

Award of hard labor not commutable to fine.

LII. Whenever an award of hard labor is made under this Act the Court shall not commute such labor to the payment of a fine under Regulation II. 1834 of the Bengal Code.

Grant of licenses in Presidency Towns.

LIII. All licenses which may by this Act be granted by a Magistrate may in the Presidency Towns be granted by a Commissioner of Police.

Interpretation of the word "India."

LIV. The word "India" in this Act shall mean the Territories which are or may become vested in Her Majesty by the statute 21 and 22 Vic. c. 106 entitled "An Act for the better Government of India."

Commencement and duration of Act.

LV. The first Section of this Act shall take effect from the passing thereof and all the rest of this Act shall take effect from and after the 1st day of October 1860. This Act shall continue in force for five years from the said 1st day of October.

INCOME TAX.

ACT No. XXXII. OF 1860.

[*Received assent of the G. G. on the 24th of July*, 1860.

1. From and after 31st July 1860 establishes for limited time duty of 3 per cent. on annual value of property and profits specified in Schedules SCHEDULES specify descriptions of property liable (1) lands and houses in India. (2) Income from property any where situate, and from professions, &c. of foreigners and non residents as well as others; (3) from interest, annuities dividends, &c.; (4) from offices and employments, salaries, &c.

2. Establishes the rules for assessment, &c.

3. Imposes further duty of 1 per cent. for roads, &c. and other reproductive public works.

4. Extends the duty to fractional parts of 100 Rupees.

5, 6 Duties to be charged, &c. by yearly assessment, &c; and (6) the first year to commence from 1st August.

PART II. 7, 8, 9. Places the Duties under the direction and management of the G. G. in C. and local Governments; and (8) adopts existing Revenue districts, &c. except as specified *viz.* in Presidency Towns, &c. the limits of which (9) for purposes of this Act may be fixed by local Government, &c.

10, 11, 12, 13, 14, 15. Local Government to appoint Commissioners in Presidency Towns, (11) not less than 6, of whom 2 are to be not in service of Government; (and in Straits Settlements three, &c.) but (12) if the 2 refuse, &c. to act, others either in Government service or not may be appointed; the appointment (13) to be for one year, renewable; and (14) two to be a quorum: and (15) the senior Government Commissioner to be President.

16, 17, 18, 19. In Presidency town and Straits Settlement, a salaried Special Commissioner to be appointed; and (17) assessors; but (18) elsewhere the Collector of land Revenue to manage, &c. the income tax; and he (19) may associate 2 persons with himself to assist him in making assessments, &c.

20, 21, 22, 23, 24, 25. In any District Government may appoint Deputy Collectors or (21) the present Deputy Collectors as assessors; and (22). Collector may delegate his power to limited extent to Deputy, subject to appeal; or (23) to unlimited extent to any subordinate officer with sanction of

Government; and (24) local Government may authorize Collector to assign salaries subject to approbation of G. G. in C.; and (25) Collectors and Commissioners may act as assessors.

PART III. 26, 27, 28, 29, 30, 31. Constitutes as Ex-officio assessors, the Accountant General, &c. and any authority in charge of Treasury and having payment of interest, &c. out of public revenue, except that (27) the Civil Auditors shall be ex-officio assessors as respects civil salaries, &c.; and (28) that the military auditors shall be the ex-officio assessors as respect military pay, &c.; and (29) that the Navy and Marine Auditors shall be the ex-officio assessors as respect pay, &c. in that department and (30) that the Pension Auditor shall be ex-officio assessor as respects pensions; and except also (31) when Government shall appoint a special assessor in regard to dutiables under Schedules 3 or 4.

32. Invests ex-officio assessors with full powers of Collectors, &c.

33, 34. Commissioners, and assessment officers, shall take an oath of secrecy; to be administered (34) in Presidency towns by Commissioner; elsewhere by Collector.

PART IV. MODE OF ASSESSMENT, 35. Record of proceeding to be kept by Collector, &c.

36, 37, 38. Collector, &c. to assign district to assessor; and (37) issue general notice to all persons; and (38) assessors to issue notice to individuals for returns in specified form.

39, 40, 41. Person liable to tax to fill up the returns, signed with declaration; and also (40) make return in specified form, of profits received by him for other person; and (41) joint agents to join in return.

42. Return when required to be made of lodgers and inmates and of others than menial servants in his service, whether resident or not, with specified particulars.

43, 44, 45. In Presidency Town and Straits Station return may be sent to Special Commissioner sealed, for him to fix assessment, and (44) elsewhere than Presidency town to Collector if income exceed 2,000 Rs.; and (45) such returns to be accompanied by the declaration.

46, 47, 48, 49. The Assessor shall compute the duties on the returns according to the rules; and (47) if he consider the return too low may surcharge it; and (28) shall make list of those who have omitted to make return and may charge them; and (49) also a list of persons who have sent returns to Special Commissioner.

50. Entitles assessor to access to collectorate and revenue records.

51. Assessors to deliver their abstracts and lists, to Collectors, &c.

52, 53, 54, 55. Collectors, &c. to make assessment on the returns, and (53) in accordance with return if satisfactory, subject to surcharge in case of fraud; or (54) if not satisfactory shall surcharge the return; (55) giving notice of surcharge to party and appointing day to hear them.

56, c. 1. Directs mode of hearing objection to surcharge; (c. 2,) permits correction of mistake in Law and decision of point referred by Collector; (c. 3,) objector must deposit costs and (c. 4,) pay duty in the meantime; and (c. 5,) be charged with general costs if objection was frivolous.

57. Assessment for place when complete to be made up in general list and be collected.

58, 59, 60. In case of application under ss. 43, 44, Collector or Special Commissioner may assess at amount suggested, if satisfied; and (59) if not satisfied may surcharge giving notice thereof; and (60) such surcharge to be final.

61. In Presidency Towns, &c. Special Commissioner to seal up and transmit the papers to the Commissioner.

62, 63. All returns and records to be kept under seal; and papers relating to the assessment to be inspected only by officers concerned.

64. Person having occasion to appear before Collector must appear in person unless excused, but no practitioner of the law shall be allowed to appear for any one.

65, 66. Persons employed in execution of this Act to be subject to the tax; and (66) shall have no voice in any question affecting his own liabilities.

PART V. 67, 68, 69. 70. Compositions for duties of Schedule 2 may be made for 3, 4 or 5 years, after return and before assessment; (68) after assessment in manner specified; and (69) terms of composition to be an annual increase of 5 per cent. on first assessment; (70) and after composition no further returns to be required.

71, 72, 73, 74, 75. Composition not to be considered, or made unless contract is signed; such contract (72) to be made in 2 parts; and (73) shall be an authority to the Collector to assess accordingly; but (74) shall be determined on 30th April after death, bankruptcy or insolvency; (75) and shall be of no effect if based on false returns or obtained by fraud.

76. Only officers having full powers of Collectors shall have authority to make contract.

PART VI. 77. Trustees, &c. Trustee, guardian, curator and committee of infant, &c. to be charged, if infant, &c. be chargeable.

78, 79. Agents, factors and receivers of pensions resident out of India to be charged for their principals; and (79) such Trustees, &c. and such agents, &c. to be answerable for all acts required from their principals as persons chargeable.

80. Trustees and Agents whose principals and cestui que trusts receive their funds direct and not from the Trustee, &c. are required only to make returns of names and addresses, &c.

81, 82, 83. Requires, &c Trustees, &c. to make specified returns; and (82) joint trustees may make one return either jointly or by one for himself and co-trustee; and (83) to have same relief in case of double assessments as other persons.

84, 85, 86, 87, 88, 89, 90. Receivers and managers of estates in Court to be chargeable, whether the title is in dispute or not; and (85) same as to

Courts of Wards ; and (86) same as to Administrators General ; and (87) such receivers, managers, Courts and Administrators shall be answerable under this Act ; and (88) same as to Bodies politic or corporate or collegiate and all companies or societies ; and (89—90) as to registered companies or societies.

91, 92. Treasurer, Secretary, Principal Agent or Manager in India of Body, Company, &c. to make returns of profits, &c. of Company ; (92) such profit to be computed exclusive of dividend.

93. Authorizes Trustees, &c. to return the amount of duties chargeable on them.

94. Married woman, subject to Law of England, a sole trader, shall be chargeable as if she were sole.

95. The profits or income of married woman subject to Law of England to be deemed the profits of the husband.

96. Married woman subject to Law of England, living separate from her husband, receiving allowance shall be charged as if she were a *feme sole*.

PART VII. Rules under Schedule 1.

97. Rules 1—23. Annual profits. The duties shall be imposed under specified rule, (r. 1,) annual profits of Khas land not under Government settlement shall be assumed to be one-third of the Government rent ; unless (r. 2,) proved to be less ; and (r. 3,) owner objecting to the $\frac{1}{3}$ rate, must make returns according to specified rules (r. 4) Persons to whom r. 1, does not apply to make returns as specified, and returns to be conclusive against party making it ; and (r. 5,) part owners to make return as to their own share, and joint sharers may join : and (r. 6, c. 1,) return to be of gross rent, &c. and (c. 2,) may be charged on gross rent ; in which case (c. 3,) he may deduct rent payable by himself ; which deduction (c. 4,) shall be as a payment to Government ; and (r. 7,) except actual cultivators, occupiers, not being owners shall return the profits they make by land or houses ; and (r. 8,) owners being occupiers to be assessed at value equal to rack-rent ; and (r. 9,) fine on bonus for lease to be assessable ; and (r. 10,) mortgagee, &c. in possession to be assessed as owner ; and (r. 11,) in case of death of owner, &c. the person becoming entitled to the rent shall pay arrears ; and (r. 12,) distinct owners of parts to be separately chargeable ; (r. 13,) what deductions may be made ; and (r. 14,) if wrongly made may be surcharged for ; (r. 15,) prescribes mode of computation when rent received in grain ; (r. 16,) unoccupied lands, &c. liable to assessment ; but (r. 17,) not to be paid for ; (r. 18,) provides for disputed valuations ; and (r. 19,) costs of professional valuation ; and (r. 20,) for deductions in favor of owner from valuation in case of loss through floods, &c. ; and (r. 21,) for deducting in favor of occupier ; or (r. 22,) of owners, being occupiers ; and (r. 23,) for deductions on account of loss of rent by insolvency, &c.

PART VIII. SCHEDULE 2.

98. Duties to be imposed under following rules (r. 1,) Duty on Trade profits to be charged on the profit made in the year preceding assessment. Profit in trade entirely carried on out of India, &c. not chargeable; (r. 2,) on newly set up trade, profits to be assumed at an average; (r. 3,) duty to extend to every kind of trade and every kind of trading company; (r. 4,) defines certain expenditure to be deducted; (r. 5,) but interest or annuity payable out of profits not to be deducted.

DUTY ON PROFESSIONS, &c. (r. 6,) No profession or employment to be exempted; (r. 7,) to be computed on scale of preceding year's profits, and (r. 8,) subject to rules 4, 5 as to deductions. (r. 9 and 10,) explain what deductions may be made in estimate of profits; and (r. 11, 12, 13, 14,) how joint parties shall be assessed and who shall make the returns. (r. 15,) Provides for separate assessment of partner claiming exemption, and (r. 16,) for separate returns and (r. 17,) for change of partners.

R. 18. Return to state every source of income.

R. 19. Relates to companies.

DUTY ON UNCERTAIN YEARLY VALUE, (r. 20, 21.) To be charged on profit of preceding year.

DUTY ON INCOME FROM ABROAD, (r. 22.) To be charged according to last year's receipts.

DUTY ON INCOME FROM UNENUMERATED SOURCES, (r. 23.) To be charged on an average.

GENERAL RULES, (r. 24.) Losses of one trade may be deducted from profit of another; (r. 25,) separate returns to be made for each trade; (r. 26,) deducting from profits part of house rent; (r. 27,) annuities, &c. charged on trade, &c. to be assessed; and (r. 28,) the tax when not to be deducted from annuity, &c.; and (r. 29 and 30,) when otherwise; and (r. 31,) payment of tax to operate as an acquittance, and (r. 32,) as to how interest not annually reserved shall be charged; and (r. 33,) certificate of charge being made in one place on interest to be granted as a protection against same charge in another place.

RULES AS TO DISTRICTS IN WHICH PERSONS ARE CHARGEABLE, 34—44. Companies, &c. chargeable where head office is situate; (r. 35,) householders at dwelling place; (r. 36,) traders, &c. at place of business; (r. 37,) manufacturers at place of manufacture; (r. 38,) other classes at place of ordinary residence at the time (r. 39,) of making the assessment; and (r. 40,) charge to stand good at such place notwithstanding removal of person charged; and (r. 41,) persons having 2 places of residence to make returns at both; and (r. 43,) be assessed at both; but (r. 44,) shall not make double payment.

TEMPORARY RESIDENTS IN INDIA, R. 45—48. Not to be charged if resident not exceeding 6 months; but (r. 46,) after that period to be chargeable; and (r. 47,) broken periods making six months in year to be accounted as six months. And general Rule (48) returns, &c. under Schedule 2 may be delivered sealed, &c.

PART IX. RULES UNDER SCHEDULE 3.

99. Duties under Schedule 3 to be charged under following rules.

R. 1—6. To be assessed by ex-officio and Special Assessors and to be deducted from interest, &c. and (r. 2,) enfacement on Government P. N. to be made subject to condition of deducting In. Tax; and (r. 3,) tax to be deducted on payment of interest, &c.; which deduction (r. 4, 5 and 6,) shall stand in place of payment.

PART X. RULES UNDER SCHEDULE 4.

100. Duties to be chargeable on salary, &c. however payable, for every description of office, employment, pension, &c.; as first, on public offices, &c. (r. 1,) to be assessed at time of audit, or where no audit, at time of payment, and (r. 2,) on (1,) income of all officers payable out of public revenue, (2,) of Commissioner of the Army (3,) and Navy, and (4,) Indian Navy and Marine, and (5,) any Court of Justice, and (6,) any public institution, and (7,) public office whatever. (r. 3,) Profits of office, &c. not being salaries to be assessed according to last year's income. Secondly, on persons holding office in Companies; (r. 4.) such persons to be assessed by a special assessor; (r. 5,) as liable at head office of company; and (r. 6,) assessment of such persons to be sent to head office; and (r. 7,) tax shall be paid there; and (r. 8,) claims of such persons to exemption to be referred to Collector, &c.; who (r. 9,) shall send warrants to collecting officers; and (r. 10,) if duties cannot be stopped, the person charged to pay personally; but (r. 11,) shall be stopped out of salary; and (r. 12,) duty to be estimated on clear salary; and (r. 13,) new assessment to be made for increase of salary, in course of year; and (r. 14,) duty deducted against intermediate receiver shall be deducted ultimately from person chargeable; and (r. 15 and 16,) deputy to be charged with deduction made on his account against principal; and (r. 17,) if salaries of many be chargeable by one deduction, the aggregate sum shall be divided among the many chargeable; and (r. 18,) duty to be deducted whenever salary is paid.

PART XI. DISCRETIONARY MODES OF ASSESSMENT.

101, 102. Except in Presidency Towns and Straits Settlements, Government may order assessment under Schedules 1 and 2 to be made by punchayet of not less than 3; who (102,) shall be appointed by Collector, &c.

103. All returns to be made to Collector.

104. Person objecting to be assessed by punchayet shall be assessed by Collector, &c.

105, 106, 107, 108. Collector may order punchayet to revise assessment &c. and (106,) if not revised or not made satisfactory, no further proceedings shall be had upon it; but (107,) it shall be confirmed by Collector if satisfactory; and (108,) shall be final when confirmed.

PART XII. APPEALS FROM ASSESSMENTS BY PUNCHAYETS.

109—114. Person assessed by punchayet may appeal within 15 days from proclamation; (110 and 111) according to provisions of Part IV., and (112,) Collector may reduce assessment, or (113,) dismiss appeal and surcharge the

assessment, and (114,) members of punchayet may attend and support their assessments.

115. Local Government may make rules for punchayet..

PART XIII. EXEMPTIONS.

116—122. Persons whose aggregate annual income is under 200 rs. not to be assessed; and (117,) if above 200 but under 500 to be assessed only at 2 per cent and not to be assessed to the 1 per cent. and (118) the exemption to be claimed where charged; notice of claim to exemption (119) to be given in place where claimant resides; which (120,) shall be sent by Assessor to Collector &c.; who (121) shall certify the exemption if allowed to whom; and (122) exempted person having paid shall have refund.

123. Exemption to be made by Ex Officio and Special Assessor when assessment made by him.

124 If claimant is out of India, his affidavits may be received.

125 Claim to exemption may be made by guardian &c., on account of others, if they are unable to attend.

126. Profits &c., belonging to Government not to be chargeable.

127—132. Officers &c., of Military forces whose pay and allowances are less than Captain of Infantry in Her Majesty's forces in India shall be exempt as respects pay and allowances; and (128,) exempts all warrant and petty officer and officers of Her Majesty's Navy, I. Navy, and Marine Department not above the rank of Lieutenant and (129,) exempts all public officers in respect of allowance for travelling expenses and other specified allowances; and (130,) exempts ryots and cultivators, whose rent or occupation value is less than 600 rs. per annum; and (131) exempts occupiers of houses at rack-rent; and (132) allows expenses of repairs to be deducted from rack-rent.

133. Local Government may order exemption wholly or partially of property dedicated to religious or charitable public purposes.

134, 135, 136. Allows deduction to be made in respect of premiums of Life Insurance and for deferred annuities and (135) payment made without deduction, money may be repaid; but (136) such allowance not to exceed $\frac{1}{6}$th of the amount of tax chargeable.

PART XIV. ABATEMENT AND RELIEF FROM DOUBLE ASSESSMENT.

137, 138. Empowers Collector to make remission for double assessment; and (138) remitted sum to be repaid according to relief.

139. Entitles person assessed upon overestimate of profits to abatement or return on proof that profits have fallen short of assessment.

140, 141. The like in case of bankruptcy &c., taking place after assessment and of person going out of business; but (141,) not if business is continued by another person.

PART XV. MODE OF PAYMENT AND COLLECTION OF THE DUTIES.

142. Duties to be paid quarterly on or before specified dates, unless otherwise ordered by Local Government.

143—145. Collectors &c., to issue in duplicate list of the assessments made by them, in (144,) form herein prescribed; and (145,) such duplicates shall be warrant and authority to collecting officers.

146, 147. Payment of duties may be made at Treasury; where (147,) a receipt shall be given.

148. Treasuries for receipt of duties to be notified by proclamation.

PART XVI. MODE OF PAYMENT UNDER SCHEDULE 2, UNDER NUMBERS OR LETTERS.

149—153. Entries of assessments to be distinguished by numbers or letters as well as the names of parties; and (150,) party may signify his intention to pay at Treasury and (151,) thereupon shall have a certificate by his number or letter without his name; and (152,) payment shall be received at the Treasury according to certificate; and (153,) corresponding receipt shall be given.

154—157. Collector &c., to issue to collecting officers lists of assessments made by him, by numbers or letters without names, and payment to be made to collecting officer, and (155) payment shall be duly made; and (156) acknowledgment of collecting officer shall be a discharge for Collector; and (157,) person making default to pay, or not sending acknowledgment of payment to Collector shall be liable to process for realization.

158, 159. Parties not notifying intention to pay at Treasury to be put on list for collecting officer and (159,) on default shall be put into defaulting list for collecting officer.

PART XVII. RECOVERY OF DUTIES.

160—163. Duties unpaid at due date may be recovered by distress and sale of movable and attachment of immovable property (161,) in manner specified (r. 1,) by distraining officer, after demand (r. 2,) in writing and making inventory; (r. 3,) sale to be within 3 days; and (r. 4,) service on absent defaulters to be at usual place of residence; and (162,) if defaulter cannot be served, inventory to be sent to Collector &c.; (163,) sale not to take place if defaulters tender the duties and expenses.

164, 165. Distress not to be excessive, and (165,) shall only be made between sunrise and sunset.

166—168. Distraining officer may break open stables &c. and enter dwelling house if outer door open, excepting female apartments, and may break open doors of lodgers who are defaulters; and (167,) may in presence of head officer of Police break open outer and inner doors where property of defaulter is secreted; and (168,) after notice for removal of females may in like manner enter female apartment, property secreted in which shall be removed immediately.

169, 170. Immovable property not to be attached without previous sanction of chief revenue authority; and (170,) after sale of movable, amount may be realized by sale of immovable property.

117, 172. Before sale, list of property to be sold shall be affixed on outer door, with notice of day, hour and place of sale; and (172,) sale of immovables not to take place till after 15 days' notice.

173—175. Sale to be in one or more lots and (174,) for ready money and defaulting purchaser to pay expenses and loss on re-sale; and (175,) surplus proceeds to be paid to defaulter.

176. House and land in respect of which duty is chargeable may be sold if no other saleable property.

177, 178. Defaulters removing from one district may be followed, and (178,) be proceeded against in other district.

179. Fees to be prescribed by local Government.

180. Defaulter may be arrested and sent to Civil Jail, for not exceeding 3 months, and 6 months, for arrears not exceeding 50 rs. and 500 rs., and for 2 years above 500 rs.

181—184. Counter claims by third person to movable property seized, to be decided by Small Cause Court in Presidency Town, (182,) by Court of Judicature in Straits Settlements, and (183,) elsewhere by Collector in a summary way; and (184,) third person making counter-claim to immovable property to give security for duty and bring civil suit within one year to decide the right.

185, 186. Claim of Government to duty to have priority &c., and (186,) creditors having execution against property shall pay the Government claim to duty.

187, 188. Parent, guardian, or representative of minor who is chargeable to be liable in respect of assets of minor; and (188,) Government claim to have priority in the course of administration of assets of deceased bankrupt and Insolvent debtors.

189. Provides for retrospective application of the Act in specified district.

PART XVIII. APPLICATION OF THE DUTIES.

190—194. All monies arising from the duties shall be paid into the Government Treasuries to I. T. Account, (191,) of which the 1 per cent. duty shall be kept in a separate account and (192,) the 1 per cent. of the Presidency Towns shall be kept in separate account; and (193 and 194,) further separate accounts shall be kept so as to admit of appropriation to the different local Governments and places for local public works.

PART XIX. PENALTIES.

195. On Officers fraudulently collecting &c., duty from person not charged or chargeable; (2,) fraudulently receiving &c., more than is charged; (3,) receiving and not paying over the whole of the money; (4,) on officer employed to serve notices &c. extorting bribe for forbearing &c.,—misdemeanor punishable with imprisonment and fine.

196. On persons not employed to serve notices &c., falsely pretending to be so and obtaining or attempting to obtain money &c.—same offence and punishment as above.

197. On persons entering female apartments contrary to provisions of Part 17 of this Act, imprisonment, &c.

198. On persons knowingly taking away property distrained under the Act, imprisonment &c.

199. For forgery &c. of any certificate &c. or of any receipt &c. or altering same &c. with intent to defraud,—felony, and penal servitude, &c. if an European &c. or transportation &c. if a Native.

200. For assaulting &c. or restraining &c. or overawing &c. Collector &c. with intention to prevent his exercising power under this Act, or combining to close shops, &c. or doing any Act with intent to induce breach of the peace or obstruct the operation of this Act, imprisonment &c. or fine or both &c.

201. For violence, threats or intimidation &c. to prevent performance of obligations under this Act, imprisonment or fine, or both &c.

202, 203. For falsely swearing or affirming to any public servant under this Act, imprisonment with or without fine: Such offence (203,) if by an European British subject to be tried in Supreme Court, or where the false matter was exhibited.

204, 205. For knowingly &c. making &c. false &c. account &c., in any return under this Act, treble the amount of duty and fine of 100 rs.; and (205,) for aiding and abetting &c. the making &c. of false account &c., fine 500 rs.

206. For false claim to abatement under Schedule I, or fraud in regard to it, or false declaration of loss &c. with fraudulent intent &c. treble the duty and a fine; and occupier assisting his landlord &c. to be fined 500 rs.

207. For knowingly making false claim to abatement under any Schedule or exemption &c., and fraudulently concealing income &c. forfeiture of 500 rs. and treble duty and on persons aiding &c. fine 500 rs.

208. For offence under s. 75 in regard to composition, fine 500 rs. and treble duty.

209. For refusing &c. to appear, &c. being duly summoned, before Collector &c. or refusing to be sworn &c. or to answer &c. fine not exceeding 200 rs.

210. For refusing &c. to deliver any return &c. or neglecting to do so within limited time, fine not exceeding 200 rs. and liability to treble duty.

211. For refusing &c. when required &c. to verify &c. any return or to appear before Collector &c., fine not exceeding 200 rs. and liability to treble duty.

212. For wilfully disclosing while under oath of secrecy, imprisonment &c. and fine &c.

213. Exempts from penalty for not making return, persons who have not been served with notice.

214. For wilful obstruction of Assessor or any Officer, in execution of Act, fine not exceeding 500 rs.

215. Any person chargeable for fraudulently changing his residence, or concealing &c. his property, or altering securities, to avoid being charged, or for falsehood, &c. with same intent, treble duty and in case of his success imprisonment &c. and fine &c.

216. For leaving district without first paying duty, or having sufficient property to satisfy it, fine &c.

217. All the above penalties to be in addition to any other punishment provided by him.

PART XX. MODE OF ENFORCING PENALTIES.

218—224. Offences under this Act, except where otherwise provided to

be tried by Magistrate if punishment is within limit of his jurisdiction, and beyond that to be sent to Sessions Judge; and (219,) if punishable with fine or fine and imprisonment, may be tried either where committed or where offender is; and (220,) if punishable with fine only may be referred by Magistrate to his assistants; and (221,) Local Government may enlarge authority of assistants subject to appeal; and (222,) Magistrate may call for proceedings of assistants; and (223,) British subject to be amenable according to general law of jurisdiction; and (224,) in Presidency Towns and Straits Settlements, Magistrates to have jurisdiction where punishment is fine or fine and imprisonment not exceeding six months.

225. Conviction &c. not to be quashed for error of form, &c. but only on the merits; depositions to be returned with conviction and may be referred to support it.

226. Except as above all other offences within Presidency Towns, &c. to be tried by Supreme Court.

227—230. All fines &c. may be levied by sale and distress of offender's goods; and (228,) defaulter may be apprehended until distress is realized unless he give security; or (229,) if no distress can be made, defaulter may be committed, unless a British subject, proceedings against whom (230,) shall be forwarded to Civil Court for execution.

231. Hard labor not to be commuted for fine.

232—236 and 239. Penalties not exceeding 200 rs. exclusive of increased duties may be recovered before Collector or two Commissioners, &c.; (233) on information and by summons of accused; and (234) they may proceed in a summary way and adjudge the penalty or reduce; and (235) the adjudged penalty may be added to the assessed duty; and (236) penalties so adjudged shall be levied as duties may be; and (239) costs may be added.

237. Informers to be entitled to a moiety of any penalty, if they have conducted themselves well.

238. Adjudication of Collector to be final and conclusive.

239. See *ante*.

240. Increased rate of duty when final may be added to assessment, and collected, &c as duty.

241. Separate account to be opened for penalties.

PART XXI. MISCELLANEOUS.

242. Provisions of an administrative kind in regard to one Schedule may be extended to any other Schedule.

243. Governor General in Council may postpone the operation of the Act for any part of India.

244. Exempts tax officers from legal responsibility for past levy of any tax or duty under sanction of Government; and tax or duty so sanctioned may be levied as under this Act.

245. No action &c., for any thing done in pursuance of this Act to be commenced without a month's notice &c., nor after three months after accrual of cause.

246. G. G. in C. may prescribe forms of returns, &c. (c. 2,) what shall be published; and (c. 3,) remain in force until altered, &c.

247. G. G. in C. may allow salaries, &c. to officers, &c. under this Act.

248. Interprets the words, "India;" "G. G. in C.;" "Local Government;" "Lt. Governorship;" "Division;" "Chief Revenue Authority;" "Collector;" "Magistrate;" "Land;" "House;" "Rack-rent;" "Owner;" "Holder;" "Person;" "Representative;" "Company;" "Trade;" "Profession;" "Profits;" "Lunatic;" "Oath."

249. Act to commence from and after 31st July 1860 and continue in force until 1st August, 1860.

An Act for imposing Duties on Profits arising from Property, Professions, Trades, and Offices.*

PART I.

Imposes Duties of 3 and 1 per Cent.

Duty of 3 per cent., and Schedules 1, 2, 3 and 4.

I. From and after the 31st day of July 1860, there shall be collected and paid for the service of the Government of India, during the term herein limited, for and in respect of the property and profits mentioned in the several Schedules contained in this Act, and marked 1, 2, 3 and 4 respectively, the yearly Duty of three Rupees for every hundred Rupees of the annual value thereof, that is to say,

SCHEDULE 1.

For and in respect of the property in, and profits arising from, all lands and houses in India.

SCHEDULE 2.

For and in respect of the annual profits arising to any person residing in India from any kind of property whatever, whether situate in India, or elsewhere; and for and in respect of the annual profits arising to any person residing in India from any profession, trade, or employment, whether the same shall be carried on in India or elsewhere.

And for and in respect of the annual profits arising to any person whatever, whether a subject of Her Majesty or not, although not resident in India, from any property whatever in India, or any profession, trade, or employment carried on within India.

And for and in respect of all interest of money, annuities, and other annual profits arising to any person residing in India, or accruing and payable in India to any person, whether residing in India or not, not charged by virtue of any other Schedule of this Act.

* Act XII. 1860 *(see post)* is An Act to amend this Act, and (by s. 10) is to be read and construed as part of it.

SCHEDULE 3.

For and in respect of all profits arising from interest, annuities, or dividends, payable in India to any person, whether residing in India or elsewhere, out of the public Revenues of India.

SCHEDULE 4.

For and in respect of every public office or employment of profit in India, and every office or employment of profit in or under any Company in India, and upon every annuity, salary, or pension, payable to any person residing in India, or paid in India to or on account of any person whatever by the Government of India, except annuities charged to the Duty under Schedule 3.

Collection and payment of Duties.

II. The Duties charged under this Act shall be assessed, collected, and paid under the Rules hereinafter provided.

Duty of 1 per cent. for reproductive public works.

III. From and after the day aforesaid, there shall also be collected and paid, under the Rules contained in this Act, for the purposes hereinafter mentioned and described as roads, canals, or other reproductive public works, for and in respect of the property and profits mentioned in the said several four Schedules respectively, the further yearly Duty of one Rupee for every hundred Rupees of the annual value thereof.

Duty on fractional parts of 100 Rupees.

IV. Upon every fractional part of one hundred Rupees of the annual value or amount of the property and profits aforesaid, the like portion of Duty at the respective rates aforesaid shall be charged, but no Duty shall be charged of a less denomination than one anna.

Assessments to be for the current year.

V. The said Duties shall be charged and levied by yearly assessments, except in the cases hereinafter provided. Every assessment made under this Act within the year appointed for making the same, shall be deemed to be for the current year, and shall be in force for such year. And every assessment made after the expiration of any year in which the same ought to have been made, shall be deemed to be for the year when the assessment ought to have been made.

Such year to commence on the 1st August 1860.

VI. Such year shall commence, for the first assessment, on the 1st day of August 1860, and for every subsequent assessment during the continuance of this Act on the 1st day of August in the year of such assessment.

PART II.

Appointment of Officers for managing and assessing the Duties.

Duties to be under whose direction and management.

VII. The Duties imposed by this Act shall, subject to the provisions of this Act, be under the direction and management of the Governor General of India in Council, the several Governors, Lieutenant-Governors, and Chief Commissioners, for the time being in each Presidency, Lieutenant-Governorship, and Province. The said Governments and Authorities respectively are hereby empowered to do all such acts and things, subject as aforesaid, as may be deemed necessary for the collecting, receiving, and accounting for the said Duties throughout the respective Presidencies, Lieutenant-Governorships, and Provinces, for which the said Duties are assessed, in the like manner as they are authorized to do with relation to any other Duties or revenue under their care.

Divisions and Districts.

VIII. The Divisions and Districts of Revenue as already constituted, or as they shall be from time to time constituted, shall be made use of for the purposes of this Act, except in the cases hereinafter specified. The Presidency Towns and the Stations of the Straits Settlement shall be separate Districts for the purposes of this Act, and it shall be lawful for the local Government to add thereto any portions of the adjoining Districts of Revenue. In any such case each part of any such District so added to a Presidency Town or to a Station in the Straits Settlement shall, for all the purposes of this Act, be held and taken to be a part of such Presidency Town or such Station.

Jurisdiction.

IX. The limits of the Presidency Towns and Stations of the Straits Settlement, with any addition of adjoining Districts made by the local Government, shall be defined by the local Government, and notified in the Official Gazette of the Presidency or Settlement. All persons subject to the provisions of this Act not resident in any of such Divisions or Districts of Revenue aforesaid, or in any Presidency Town, or any Station of the Straits Settlement, shall be deemed for the purposes of this Act to be within such Revenue jurisdiction, as the Governor-General of India in Council, by order to be published in the Calcutta Gazette, shall appoint.

Commissioners to be appointed for the Presidency Towns and Straits Settlement.

X. In the Presidency Towns and Stations of the Straits Settlement, the local Government shall, from time to time, appoint persons to be Commissioners for the purposes of this Act.

Number of Commissioners for the Presidency Towns and Straits Settlement.

XI. In the Presidency Towns the number of such Commissioners shall be not less than six, of whom not less than two shall be persons not in the service of Government; and in the Stations of the Straits Settlement, the number of such Commissioners shall be not less than three, of whom one shall be a person not in the service of Government. The local Government may grant to such Commissioners in the Presidency Towns and Stations in the Straits Settlement as may not be in the service of Government, such fee or remuneration as may be approved by the Governor-General of India in Council.

If person not in the service of Government be appointed and refuse or neglect to act.

XII. If any person not in the service of Government, having been so appointed, shall decline or neglect to act, it shall be lawful for the local Government to appoint any other person, whether in the service of Government or not, to be a Commissioner in lieu of the person so declining or neglecting.

Duration of appointment, re-appointment, and removal of Commissioners appointed under the preceding Sections.

XIII. The Commissioners appointed under the last three preceding Sections shall hold the appointment for one year only, but it shall be in the discretion of the local Government, after the expiration of that period, to re-appoint any of them. It shall also be lawful for the local Government, at any time, to remove any of such Commissioners.

Quorum.

XIV. Any two of the Commissioners, one of them being an Officer of Government, shall form a quorum.

Meetings of Commissioners.

XV. The Senior Officer of Government in the Commission shall be President of the Commission. At every Meeting of the Commissioners at which such Officer shall not be present, the Senior Officer of Government present shall preside. If a difference of opinion shall arise, and the opinions shall be equally divided, the President of the Meeting shall have a casting vote.

XVI. For every Pesidency Town and Station in the Straits

Appointment of Special Commissioner for Presidency Towns and Straits Settlement.

Settlement, the local Government shall appoint an Officer in the service of Government on such salary as shall be approved by the Governor-General of India in Council. to be called the Special Commissioner, for the purpose of making assessments in the cases referred to him under the provisions hereinafter contained.

Appointment of Assessors, &c.

XVII. In each of the Presidency Towns and Stations of the Straits Settlement, the local Government may appoint, on such salaries as may be approved by the Governor-General of Innia in Council, such number of Assessors and such Ministerial and other Officers as may be deemed necessary for carrying out the provisions of this Act.

Except in the Presidency Towns and Straits Settlement, Collector of Land Revenue to be entrusted with execution of Act and management of Duties.

XVIII. Except in the Presidency Towns and the Stations of the Straits Settlement, the Collector of Land Revenue shall be entrusted with the execution of this Act, and the managing, levying, receiving, and accounting for the Duties imposed thereby, under the control of the ordinary Revenue Authorities to whom such Collector is subject in matters relating to the Land Revenue.

Collector may associate others with himself to assist him in making assessments.

XIX. The Collector may, from time to time, whenever he shall think proper, associate with himself two or more persons, whether in the service of Government or not, to assist him in making assessments under this Act or in any proceeding held under the provisions of this Act.

Appointment of Deputy Collectors as Assessors.

XX. The local Government may appoint in any District one or more Deputy Collectors as Assessors, on such salaries as shall be approved by the Governor-General of India in Council, for the performance of the Duties that may be performed by Assessors under this Act.

Appointment as Assessors of persons already employed as Deputy Collectors.

XXI. The local Government may also entrust any person who may be now employed or may hereafter be employed as a Deputy Collector in the Revenue Department with the duties of an Assessor.

XXII. The Collector may empower any Deputy Collector

Powers of Deputy Collectors.

whether employed as an Assessor or not, subordinate to such Collector, to exercise all the powers conferred on such Collector, by this Act in respect of assessments in cases of profits or income not exceeding one thousand Rupees a year, subject to appeal to such Collector in the event of surcharge by such Deputy Collector.

Delegation of powers and duties to Deputy Collectors.

XXIII. The Collector may, with the sanction of the local Government, delegate to any Covenanted Officer or to any Deputy Collector whether employed as an Assessor or not, subordinate to such Collector, any of the powers or duties with which he is entrusted under this Act; but in exercising such powers and duties, such Covenanted Officer or Deputy Collector shall be subject to the direction and control of such Collector.

Appointment of Ministerial Officers by Collectors.

XXIV. It shall be lawful for the local Government to authorize the Collector to appoint, on such salaries as shall be approved by the Governor-General of India in Council, such Assessors and Ministerial and other Officers as may be necessary for carrying out the provisions of this Act, subject to the same control and Regulations as in the other Departments of Revenue.

Collector and Commissioners may exercise functions of Assessors.

XXV. The Collector and Commissioners respectively may at his or their discretion exercise any of the functions that may be performed by Assessors.

PART III.

Ex-Officio and Special Assessors for Government Securities and in Public Departments.

Ex-Officio Assessors for Interest on Government Securities.

XXVI. The Accountant General and the Sub-Treasurer of the Presidencies of Bengal, Madras, and Bombay respectively, and every Authority in charge of a Public Treasury and authorized to pay the interest on any security of the Government of India, or any annuity payable out of the public revenue of India, shall be respectively Ex-Officio Assessors for executing this Act for the purpose of assessing and discharging the duties hereby imposed in respect of interest on securities of the Government of India, and of all annuities payable out of the revenues of India to any per-

son whatever, at the places at which the said Officers respectively hold office; and in respect of all other yearly sums (other than the salaries or pensions mentioned in the five next succeeding Sections of this Act,) payable by the said Government, or out of the public revenue at the Government Treasuries at the said places respectively, and also in respect of all other profits chargeable with any Duty under this Act, and arising within any office or department under the management or control of, or the accounts of which are rendered to, or pass through the office of the said several Officers respectively.

Ex-Officio Assessors for Civil Salaries.

XXVII. The several Officers entrusted with the duty of auditing the Civl salaries and allowances payable out of the public revenue, shall be respectively Ex-Officio Assessors for executing this Act for the purpose of assessing all such salaries and allowances payable to any person in the civil employment of the Government, or serving in any Civil Department, or for the payment of which the audit of any Civil Auditor is required and payable from the public revenue by or upon the audit of such Officers repectively.

Ex-Officio Assessors for Military Pay.

XXVIII. The several Officers charged with the duty of auditing any pay, salaries, or allowances payable to any Officer or person in Her Majesty's Army, or in Her Majesty's Indian Military Forces, or in the Military employment of the Government, or serving in any Military Department, or for the payment of which the audit of any Military Auditor is required and payable out of any public revenue, shall be respectively Ex-Officio Assessors for executing this Act, for the purpose of assessing all pay, salaries, and allowances payable to any person in the Military employment of the Government, or serving in any Military Department, or for the payment of which the audit of a Military Auditor General is required, and payable from the public revenue upon the audit of such Officers respectively.

Ex-Officio Assessors for Marine Pay.

XXIX. The several Officers entrusted with the duty of auditing any pay, salaries, and allowances to any Officer or person in Her Majesty's Navy, or Indian Naval Forces, or in the Marine Service of, or in any Marine Department and employment under the Government, shall be Ex-Officio Assessors for executing this Act, in respect of

all pay, salaries, and allowances payable to any person in Her Majesty's Navy or Indian Naval Forces or in the Marine Service of the Government, or serving in any such Marine Department and employment.

Ex-Officio and Special Assessors for Pensions.

XXX. The several Collectors, Paymasters, and Officers charged with the audit and payment, or payment without audit, of pensions payable by the Government, shall be Ex-Officio Assessors for executing this Act in respect of all such pensions; and if the local Government shall think fit to appoint any other persons to act in that behalf, the persons so appointed shall be Special Assessors for executing this Act in respect of any of the pensions payable, or audited by such Paymasters and Officers respectively.

Government to have power to appoint Special Assessors for other Departments.

XXXI. Whenever it shall appear to the local government necessary to appoint any Special Assessor for the purpose of executing any matter in relation to any of the Duties mentioned in Schedule 3 or Schedule 4 of this Act, in respect of which no provision has been herein made for the appointment of Assessors for the purpose of executing any matter in relation to the Duties mentioned in either of the said Schedules at any place not herein mentioned, it shall be lawful for the said local Government to appoint a Special Assessor for the special purpose of executing this Act in respect of such matter, and at such place.

Assessors to have same powers as Collector or Commissioners when acting.

XXXII. The Assessors appointed under the last six preceding Sections of this Act shall have authority to exercise and apply all the powers of this Act as fully and effectually as the Collector or Commissioners are authorized to exercise and apply the same, so far as the same relate to the said Duties, to be assessed by the said Assessors, and shall make their assessment of the said Duties subject to the Rules contained in this Act in respect of such Duties respectively, according to the several Schedules under which such Duties are chargeable.

Oath of secrecy to be taken by Officers.

XXXIII. Every Commissioner, Collector, or other Officer employed in making any assessment under this Act, shall, before acting in execution of this Act, take an oath of secrecy in a form to be prescribed as hereinafter mentioned by the Governor-General of India in Council.

Administration of Oaths.

XXXIV. In the Presidency Towns and the Stations of the Straits Settlement, any one of the Commissioners, and in other places the Collector, is hereby authorized to administer such Oath. The Oath may be administered to the Collector by any other Officer of Government above the rank of a Deputy Collector.

PART IV.

Mode of Assessment.

Proceedings of Collector and Commissioners to be recorded.

XXXV. A record shall be kept of all the proceedings held by the Collector and Commissioners under this Act.

Apportionment of District among Assessors.

XXXVI. The Collector and Commissioners shall assign to each Assessor such portion of the District in which such Assessor shall be employed, as may appear proper and shall fix the place or places at which the Assessor shall ordinarily hold his office.

Issue by Collector and Commissioners of general notice to fill in return of profits and income.

XXXVII. The Collector and Commissioners shall issue a general notice, requiring every person, liable to the Duties imposed by this Act, to fill in a return of his profits or income, in the form to be prescribed by the Governor-General of India in Council, as hereinafter provided, and to transmit such return to the Assessor by a date to be specified in the notice. It shall be explained in the notice that persons requiring forms of returns can procure them at the Office of any of the Assessors. Copies of such notice shall be affixed at the Office of the Commissioners in the Presidency Towns and Straits Settlement at the Collector's Office, at every Revenue or Police Office, and at such other conspicuous places through the Town, Stations of the Settlement, and Districts, as the Collector or Commissioners, respectively, shall appoint.

Special Notice to be served by Assessors.

XXXVIII. The Assessor shall, without delay after this Act shall come into operation, and afterwards, from year to year, serve a notice, in the form to be prescribed by the Governor-General of India in Council as hereinafter provided, on every person within his jurisdiction, whom he may consider to be liable to the Duties imposed by this Act. Such notice shall require the person to return his

profits and income, and shall specify the date by which the return is to be made and the place of the Assessor's Office at which the return is to be made; and shall be signed by the Assessor. The form of the return shall be prescribed as aforesaid and accompany the notice. If the person be not found, the notice shall be left at his usual place of residence or business, or shall be affixed thereto, and thereupon such notice shall be held to have been served.

Return and declaration how to be made.

XXXIX. Every person who is liable to the Duties chargeable by this Act, shall transmit to or deliver at the Assessor's Office the return duly filled in and signed by him. A declaration in the form to be prescribed as hereinafter provided, shall be added at the foot of the return, that the profits or income stated therein are truly estimated on all the sources contained in the several Schedules of this Act, after setting against, or deducting from such profit or income, such sums as are allowed by this Act, and no other sum. The return may be sealed up, and the seal shall be broken only by the Assessor.

Lists to be delivered by persons chargeable on account of others.

XL. Every person who is in the receipt of any money or value, or the profits arising from any of the sources mentioned in this Act, belonging to any other person, in whatever character the same shall be received, for which such other person is chargeable under this Act, or would be so chargeable if he were resident in India, shall, within the period mentioned in such notice as aforesaid, prepare and deliver, in the form to be prescribed as aforesaid, a list containing a true and correct statement of all such money, value, or profits, and the name and place of abode of the person to whom the same shall belong, together with a declaration in the form to be prescribed as aforesaid whether such person is of full age, or a married woman, subject to the provisions of the English Law regarding coverture, living with her husbad, or a married woman, subject as aforesaid, whose husband is not accountable for the payment of the Duty hereby chargeable, or whether such person is or is not a resident in India, or an infant, or lunatic.

Lists to be delivered by persons so acting conjointly with others.

XLI. Every person acting in such character jointly with any other person, shall, in the manner aforesaid, deliver a list of the name and place of abode

of every person so joined with him at the time of delivering such list.

Lists of Lodgers, inmates, &c.

XLII. Every person, when required so to do by a notice to be prescribed as aforesaid, shall, within the period to be mentioned in such notice, prepare and deliver to the Assessor of the District, wherein such person shall reside, a list in writing, containing, to the best of his belief, the proper name of every lodger or inmate resident in his dwelling-house, and of any other persons, not being menial servants receiving less wages than two hundred Rupees per annum, employed in his service, whether resident in such dwelling-house or not, and the place of residence of such of them as are not resident in such dwelling-house, and also of any such lodger or inmate who shall have any ordinary place of residence elsewhere, at which he is liable, under this Act, to be assessed, who shall be desirous of being so assessed at such place of ordinary residence. Such lists shall be signed by the respective persons delivering the same, and shall be made out in the form to be prescribed as aforesaid. No person being required to deliver a list of lodgers, inmates, or other persons aforesaid, shall be liable to the penalties hereinafter mentioned or either of them, for any omission of the name or residence of any person in his service or employ, and not resident in his dwelling-house, if it shall appear that such person is entitled to be exempted from the payment of all and every the Duties hereby imposed.

Returns by persons desirous of being assessed by Special Commissioner.

XLIII. If in any Presidency Town or any Station of the Straits Settlement any person shall desire that his return be rendered to, and his assessment fixed by, the Special Commissioner, he may, together with the return, transmit, under cover to the Assessor, an application to that effect, sealed and addressed to the Special Commissioner. Such application shall, on receipt thereof, be transmitted to the Special Commissioner.

Returns by persons desirous of being assessed by Collector.

XLIV. If in any other place, any person, whose annual profits or income shall exceed two thousand Rupees, shall desire that his return be rendered to, and his assessment fixed by, the Collector, he may transmit such return sealed and addressed to the Collector.

XLV. The returns made under the last two preceding Sections

Form of Returns under the two preceding Sections.

shall be in the form which shall be prescribed for returns as aforesaid. The declaration required by Section XXXIX shall be added thereto.

Procedure on Assessor receiving returns.

XLVI. The Assessor on receiving the returns shall compute the Duties to the best of his judgment according to the Rules herein contained for each Schedule respectively; but he shall not summon or question the parties making the returns. The Assessor shall make an abstract in the form to be prescribed as aforesaid, specifying the name of each person, the amount of profits or income returned by such person, and the amount of Duty chargeable on such return under this Act.

Preparation of an abstract.

Understated returns to be noticed in the Abstract.

XLVII. If the Assessor consider any return to be understated, he shall state, in the Abstract prescribed in the last Section, the sum on which he shall consider the person making such return ought to be assessed and the amount of Duty chargeable thereon.

List of persons omitting to furnish returns.

XLVIII. The Assessor shall make a list of the persons, if any, who have omitted to furnish returns, and shall compute, to the best of his ability, the amount at which such persons should be assessed, and shall enter the Duties chargeable thereon.

List of persons applying to be assessed by Special Commissioner or Collector.

XLIX. The Assessor shall also make out a list of the persons, if any, who have sent applications to be assessed by the Special Commissioner or Collector.

Assessor to have access to Collectorate or Revenue Records.

L. The Assessor shall have full access to any Collectorate or Revenue Records which he may require to inspect, in order to enable him to compute the Duties on landed property of all kinds, according to the directions hereinafter contained.

Abstract and Lists to be sent by Assessor to Collector or Commissioners.

LI. The Assessor shall deliver or transmit the said abstract and lists, signed by himself, together with the returns received by him, to the Collector or Commissioners. If the Assessor be empowered to make assessments under Section XXII. of this Act, he shall also deliver or transmit to the Collector an abstract of the assessments so made by him.

LII. The Collector or Commissioners shall consider the said lists and returns, and shall assess each person with the Duties properly chargeable; but they shall not summon or question the persons chargeable at this stage of the proceedings.

Collector or Commissioners definitely to assess each party.

LIII. If the Collector or Commissioners be satisfied with the return made by any person chargeable under this Act, they shall assess him in the amount with which he is chargeable according to the return. Such assessment shall be final, subject only to such surcharge in case of fraud as provided in this Act.

Assessments made by Collector or Commissioners according to returns furnished.

LIV. Whenever the Collector or Commissioners shall be dissatisfied with any return, and shall consider that any person should be charged with Duty in excess of the sum chargeable on the amount of the profits or income returned by him, the Collector or Commissioners shall surcharge such person accordingly in such sum as they shall think fit.

Surcharges.

LV. Whenever any person shall have been surcharged or shall have been charged on an assessment made under Section XLVIII. by the Collector or Commissioners, a notice shall be given to such person, in a form to be prescribed as aforesaid, stating the amount of such surcharge or charge, and intimating that, if he desire to urge any objection thereto, he may appear, on a date specified, before the Collector or Commissioners, and make such representation, and tender such proof in support thereof as he may wish. But no person who shall have been charged on an assessment made under Section XLVIII. shall be heard against such charge, if he shall have been served with a notice in the manner prescribed by this Act, unless he can satisfy the Collector or Commissioners that his failure to make the return within the period allowed in such notice was unavoidable.

Notice of surcharge.

LVI. *Clause* 1.—If, on the day appointed, the person shall appear, he shall be heard before the Collector or Commissioners sitting with closed doors, and the Assessor shall also, if required, attend. The Collector or Commissioners shall hear the statement of the person and may inspect any books or papers which he shall voluntarily tender, or

Procedure on appearance of party.

question any witness whom he shall produce, but they shall not require the person chargeable to produce any books or proofs besides those which he may choose to tender. An oath or affirmation may be administered to any witness produced by the person, but the person himself shall not be sworn unless he shall desire it. After such hearing the Collector or Commissioners shall modify, abate, or confirm, the surcharge or charge upon such person, or shall postpone the case for further hearing. After finally hearing the case, he or they shall decide the amount in which the person ought to be charged or surcharged, and shall assess him in such amount. Such decision and assessment shall be final, subject only to such surcharge in case of fraud and to such revision as are provided by this Act.

Revision of assessment.

Clause 2.—For the purpose of correcting any mistake in law, or for deciding any point specially referred by the Collector, such assessment, if made by the Collector may be revised, on the application of the person assessed, by the authorities to whom the Collector in matters relating to the land Revenue is subordinate, if they think fit so to do, under such rules as those authorities shall from time to time prescribe.

Deposit of costs before revision.

Clause 3.—Before any revision shall be made, the applicant shall deposit with the revising authorities such amount as they may require to be deposited for the purpose of covering costs as hereinafter mentioned.

Pending revision applicant liable to pay the duty.

Clause 4.—Pending the revision, the applicant shall be liable to pay the duty with which he has been charged, as if no such application had been made, subject to a refund of such amount as the revising authorities shall direct.

Penalty for frivolous or vexatious applications.

Clause 5.—If the revising authorities consider the application for the revision to have been frivolous or vexatious, they may order the applicant to pay such amount of costs as they may think reasonable, and such amount shall be retained out of the amount deposited on account of costs.

A general abstract of assessments to be prepared according to which levy of Duties to be made.

LVII. When the assessments for any place shall have been made, a general abstract shall be prepared in the form to be prescribed as aforesaid, to which the signature of the Collector or Commissioner shall be attached, and, in accordance

with such abstract, the Collector or other Officer in that behalf appointed shall proceed to levy the Duties in the manner hereinafter prescribed.

Assessments made by Collector or Special Commissioner according to returns furnished.

LVIII. When any person shall have applied to be assessed by the Collector or Special Commissioner under Sections XLIII. and XLIV. the Collector or Special Commissioner shall consider such application, together with the return and particulars accompanying it. If the Collector or Special Commissioner shall be satisfied with the return, he shall assess such person according thereto.

Surcharges.

LIX. If the Collector or Special Commissioner shall not be satisfied with the said return, he shall surcharge the person in such sum as he shall think fit. In case of such surcharge, the Collector or Special Commissioner shall cause such notice to be given to the person in the manner prescribed in Section LV. and shall proceed to make his assessment and surcharge in the manner hereinbefore prescribed.

Effect of assessment by Collector or Special Commissioner.

LX. Such assessment made by the Collector or Special Commissioner shall be final, subject only in case of fraud to such surcharge as provided in this Act.

Presidency Towns, &c. Transmission of papers to Commissioners.

LXI. In the Presidency Towns and the Stations of the Straits Settlement, the Special Commissioner shall thereupon seal up the papers and transmit them to the Commissioners.

Returns &c. to be kept under seal.

LXII. The returns and other records relating to the execution of this Act, shall be kept under seal in the Office of the Collector, or in the Presidency Towns and Stations of the Straits Settlement, in the Office of the Commissioners. The disposal of such records shall be at the discretion of the Revenue Authorities.

Papers relating to assessment not to be inspected by others than Officers expressly appointed.

LXIII. In no case shall any paper whatsoever, relating to the assessment of the Duties under this Act, be inspected by any one, save such of the Officers appointed under this Act as are herein expressly authorized to inspect the same.

LXIV. Any person who may have occasion to appear before

Person how to appear.

the Collector or Commissioners or Special Commissioner under the provisions of this Act, shall attend in person, unless his personal attendance be dispensed with, on sufficient reason to be shown, in which case a servant, agent, or relation may be heard on his behalf. Provided that no Counsel, Advocate, Pleader, Attorney, or person practising the law shall be allowed to appear or plead on behalf of any other person.

Persons acting in execution of Act to be charged with Duties as other persons.

LXV. The persons acting in the execution of this Act, shall be charged and assessed to all the Duties imposed by this Act if liable thereto, and shall deliver all such returns and declarations, and shall do all such acts and things as shall be required to be delivered or done by this Act, in order to the assessing of the said Duties in like manner as any other persons.

A person acting in execution of Act to have no voice in the consideration of his own return.

LXVI. Any person aforesaid, whose return shall be under consideration, or who shall be concerned or interested therein, either for himself or for any other person in any character before described, shall have no voice, and shall not be present, except upon a hearing for the purpose of being examined *vivâ voce* by the Collector or Commissioners having his assessment or schedule under consideration, but shall withdraw during the consideration and determination thereof.

PART V.

Compositions.

Parties may compound for 3, 4, or 5 years.

LXVII. Any person desirous of compounding for the Duties mentioned in Schedule 2 of this Act. in the first, second, or third years of this Act, shall, at any time after he shall have delivered the return of his profits or income under the said Schedules, as required by this Act, and before he shall have been assessed for such years, deliver to the Assessor of the District a notice signed by himself of his desire to compound for the Duties in the manner allowed by this Act; and shall state therein whether he desires to compound for three, four, or five years.

Parties to execute contract of composition.

LXVIII. When such assessment shall have been made by the Collector or Commissioners, or a Special Commissioner, it shall be lawful for such Col-

lector or Commissioners to contract and agree with such person for a composition for the said Duties on the terms hereinafter mentioned, for a period of not less than three years, and not more than five years limited for the continuance of this Act, provided such person shall enter into and sign a contract of composition within the space of one calendar month next after the making of such assessment shall have been notified to him, and his appeal against the same (if any) shall have been determined.

Terms of composition.

LXIX. The terms of such composition shall be the payment in each year of the said period of the amount of the said assessment so made as aforesaid, together with an addition thereto at the rate of one Rupee for every twenty Rupees of the sum assessed as aforesaid, which addition shall be made by the Collector or Commissioners to the said assessment so made for the first year of the said term.

Assessments how to be made in subsequent years upon persons executing contracts.

LXX. In each subsequent year thereof the assessment of the Duties under Schedule 2, upon the person who shall have entered into such contract of composition, shall be made by the Collector or Commissioners in a sum equal to the aggregate amount of the said first year's assessment with the said additional rate thereon, and it shall not be necessary for such person to deliver any further return of profits or income described in the said Schedule 2 during the said period of composition.

If persons neglect or refuse to execute contract of composition.

LXXI. If the person upon whom such assessment as aforesaid shall have been made, shall neglect or refuse to enter into and sign such contract of composition within the time herein limited for that purpose, the assessment so made, without the said additional rate, shall be collected and recovered in like manner as any other assessment under this Act.

Form of contract of composition. Contract to be in two parts.

LXXII. The contract of composition shall be made in the form to be prescribed as aforesaid. Every such contract of composition shall be made in two parts, which shall be severally signed by the Collector or one of the Commissioners, and by the person compounding. One of such parts shall be delivered to the person compounding, and the other part shall remain with the Collector or Commissioners.

Effect of contract.

LXXIII. Every such contract shall be an authority for the Collector or Commissioners to make an assessment on the person compounding for each year of the said period of composition in accordance with the terms thereof, and to cause the sum hereby assessed to be collected and paid over in such manner and by such means as are herein authorized in relation to any other assessment made under this Act.

Composition to cease on 30th April next after death or bankruptcy of party compounding.

LXXIV. If any person who shall have compounded as aforesaid shall die or become bankrupt or insolvent before the expiration of the period of composition, his contract of composition shall cease and determine on the 30th of April next after his death, bankruptcy, or insolvency, save and except as to any instalment of Duty which, before the said day, shall have become payable and shall then remain unpaid.

In case of fraud in compounding, composition to be void, and penalties incurred.

LXXV. If any person who shall propose to compound for the Duties chargeable under Schedule 2 of this Act shall wilfully make or deliver any false return or declaration of profits or income described in such Schedule, or shall wilfully conceal or omit to state any of such his profits or income, or any part or portion thereof, or any other matter or thing required by this Act to be stated in such declaration or return; or if any person shall, by any fraudulent means, procure an assessment to be made upon him for a less amount of the said Duties than he shall be chargeable with, in order to compound thereon: or if any person shall, by any fraudulent means whatever, cause or procure a contract of composition to be made or entered into with him for a less amount of Duties than he ought to be charged with, the contract of composition, if any, which shall have been made with such person, shall be void and of no effect, and such party shall be charged and assessed as if no such contract had been made, and any sum of money which may have been paid in pursuance of such contract shall be forfeited.

Officers not exercising full powers of a Collector incapable of making contracts.

LXXVI. No Officer not exercising the full powers of a Collector shall have authority to make any contract of composition under this Part of the Act.

PART VI.

Provisions as to Trustees and Special Classes of Persons chargeable.

Trustees and Guardians of incapacitated persons to be charged.

LXXVII. The trustee, guardian, curator, or committee of any person, being an infant, or married woman subject to the law of England as aforesaid, or a lunatic, and having the direction, control, or management of the property or concerns of such infant, married woman, or lunatic, whether such infant, married woman, or lunatic shall reside in India or not, shall, if such infant, married woman, or lunatic be chargeable under this Act, be charged to the said Duties in like manner and to the same amount as would be charged to such infant if of full age, or to such married woman if she were sole, or to such lunatic if he were capable of acting for himself.

Agents, Factors, and Receivers of Non-residents to be charged.

LXXVIII. Any person not resident in India, whether a subject of Her Majesty or not, being in the receipt, through any agent, factor, or receiver, of any profits or income chargeable under this Act, shall be chargeable in the name of such agent, factor, or receiver having the receipt in India of such profits or income belonging to such person, in the like manner and to the like amount as would be charged to such person if resident in India, and in the actual receipt thereof.

Trustees, Guardians, Agents, &c., required to do all acts required to be done by their Principals.

LXXIX. Every such trustee, guardian, curator, or committee, and every such agent, factor, or receiver, shall be answerable for the doing of all such acts and things as are required to be done by the person chargeable.

Trustees or Agents of certain persons (being resident in India) only required to deliver a list of names and residence of principals.

LXXX. No trustee, who shall have authorized the receipt of the profits or income arising from trust property by the person entitled thereto, or by the agent of such person, provided such person shall actually receive the same under such authority, and no agent, or factor, or receiver of any person, being of full age, and resident in India, and being under no disability, who shall return a list in the manner herein required, of the name and residence of such person, and of the amount of the in-

come liable to be assessed, shall be required to do any other act for the purpose of assessing such person, unless the Collector or Commissioners, acting in the execution of this Act in respect of the assessment to be made on such person, shall require the evidence of such trustee, agent, or receiver. The Collector or Commissioners shall have power to summon such person to attend before them when his evidence is required.

Trustees or Agents of incapacitated persons may be required to furnish statements of income and profits.

LXXXI. Every person who shall act in any character as aforesaid for any other person who by reason of any such incapacity as aforesaid, or by reason of his not being resident in India, cannot be personally charged by virtue of this Act, shall also, when required, deliver in the manner herein directed and in the same District in which the person delivering such list ought to be charged on his own account, a true and correct statement, in writing, signed by him, of the amount of the profits and income to be charged on him on account of such other person, estimated during the period, and according to the rules contained in the said respective Schedules, together with such declaration of the truth of such statement, as required in Section XXXIX. of this Act.

Mode of Assessment if two or more such persons are liable to be charged for the same person.

LXXXII. Where two or more such persons shall be liable to be charged for the same person, one return only shall be required, and such return shall be made by such persons jointly, or by one or more of them on behalf of himself or themselves; and it shall be lawful for them to give notice, in writing, to the Collector or Commissioners acting for the place where they shall be called upon for such statement, in what place they are respectively chargeable by this Act on their own account, and in which of the said places they are desirous of being so charged on the behalf of such other person for whom they so act in any of the characters before-mentioned, and they shall be assessed accordingly by one assessment in such place, provided any one of such persons shall be liable to be charged on his own account in the same place.

Relief from double Assessments.

LXXXIII. If more than one assessment shall be made on such persons, or any of them, on the same account, relief shall be granted for such double assessment by like applications to the Collector or Commissioners, as are allowed in other cases by this Act.

Receiver or Manager of trust property chargeable.

LXXXIV. The receiver or manager appointed by any Court in India, whether constituted by Royal Charter or not, or having the direction and control of any property in respect whereof a Duty is charged by this Act, whether the title to such property shall be uncertain or not, or subject to any contingency or not, shall be chargeable to the said Duty in like manner and to the like extent as the persons entitled thereto would be chargeable, if in actual possession of the said property, and if the title thereto were certain and not subject to any contingency whatever.

Court of Wards is to be charged for property in its control.

LXXXV. The several Courts of Wards in the Presidencies of Bengal, Madras, and Bombay, and in any other parts of India wherein such Courts are established, shall, in respect of all property, profits, and income under the direction and control of such Courts, and chargeable with any Duty under this Act, whether the proprietors on whose behalf the said Courts shall have such direction or control, be or continue disqualified or not, so long as the said Courts shall have such direction or control, shall be chargeable to the said Duty in the like manner and to the like extent as the proprietors of such property, profits, and income, if not disqualified, and if in actual possession thereof, would be chargeable.

Administrators General are to be charged for all property in their possession and control.

LXXXVI. The Administrators General of Bengal, Madras, and Bombay shall be chargeable under this Act in respect of all property, profits, and income in their possession or under their control by virtue of any letter of administration or *ad colligenda*, or by virtue of any probate granted to them respectively as executor of any will, or of any appointment as curator, or as official trustee.

Receivers, Managers, Courts of Wards, and Administrators General are required to do all acts under this Act.

LXXXVII. Every such receiver or manager, every such Court of Wards, and every such Administrator General, shall be answerable for doing all such matters and things, and for delivering all such returns and declarations, as are required to be done by virtue of this Act, in order to the charging of the Duties imposed by this Act in respect of the several properties, profits, and income under their care respectively, and in order to the payment of the same.

LXXXVIII. All Bodies politic or corporate collegiate, and

Bodies, Companies, and Societies charged with Duties.

all Companies or Societies of persons, whether corporate or not corporate, and the property thereof, shall be chargeable with the same Duties, and shall be subject in all respects to the provisions of this Act, in the same manner as any person and his property are subject thereto.

Secretaries, or Principal Agents or Managers of registered Bodies, Companies, or Societies to do all acts required for ment.

LXXXIX. When any such Body, Company, or Society shall be registered under any Act of the Governor General of India in Council for the time being in force, the registered Officers of such Body, Company, or Society, and where it shall not be so registered, the Secretary or Principal Agent or Manager in India, shall be answerable for doing all such acts and things as shall be required to be done by virtue of this Act, in order to the assessing such Body, Company, or Society, or the officers or servants thereof, as hereinafter provided, to the Duties imposed by this Act and paying the same.

Treasurers, &c. of Bodies, Companies, and Societies, answerable for payment of Duties.

XC. The Treasurer, Secretary, or Principal Agent or Manager in India of any such Body, Company, or Society, whether the same be registered as aforesaid or not, shall be also answerable for the payment of the said Duties, payable by such Body, Company, or Society.

Treasurers, &c. of Bodies, Companies, and Societies are required to deliver correct returns.

XCI. The Treasurer, Secretary, or Pricipal Agent or Manager in India of any such Body, Company, or Society, shall also, within the period required by this Act, prepare and deliver, in the form to be prescribed as aforesaid, a true and correct return of the profits and income to be charged on such Body, Company, or Society, computed according to the directions of this Act, together with such declaration of the truth of the said return as aforesaid, as required by Section XXXIX. of this Act.

Such return to be made on annual profits and income before a dividend is made.

XCII. Such return shall be made on the amount of the annual profits and income of such Body, Company, or Society, before any dividend shall have been made thereof to any other persons, Bodies, or Companies having any share, right, or title in or to such profits or income, and all such other persons, Bodies, Companies, or Societies shall allow, out of such dividends, a proportionate deduction in respect of the Duty so charged.

XCIII. When any trustee, guardian, curator, or committee, agent, factor, or receiver of or for any person, shall be assessed under this Act in respect of such person; or when any receiver appointed by any Court, or when any Court of Wards, or any Administrator General, shall be assessed under this Act in respect of the property, profits, or income received by them; or when any Secretary, Agent, Manager, or other officer of any Body, Company, or Society shall be so assessed in respect of such Body, Company, or Society as aforesaid, it shall be lawful for every such person, who shall be so assessed, out of the money which shall come to his hands as such trustee, guardian, curator, committee, agent, factor, or receiver as aforesaid, or as such receiver, Court of Wards, or such Secretary, Manager, Agent, or Administrator General, or such other officer as aforesaid, to retain so much thereof from time to time, as shall be sufficient to pay such assessment; and each of the said persons enumerated in this Section is hereby fully indemnified against every person, Body, Company, or Society, whatsoever, for all payments which he shall make under this Act.

Trustees, Agents, and Receivers may retain Duties charged on them out of trust monies.

XCIV. Any married woman subject to the law of England in regard to her coverture, acting as a sole trader in her own name, or having or being entitled to any profits or income to her sole or separate use, shall be chargeable to the Duties under this Act, in like manner, except as hereinafter mentioned, as if she were sole and unmarried.

Married woman (subject to English law) having separate property chargeable.

XCV. The profits or income of any married woman subject to the law of England as aforesaid, living with her husband, shall be deemed the profits of the husband, and the same shall be charged in the name of the husband, and not in her name or in the name of her trustee.

Profits of married woman (subject to English law) living with her husband, how chargeable.

XCVI. Any married woman subject to the law of England, or acting as committee as aforesaid, living in India separate from her husband, whether such husband shall be temporarily absent from her or from India, or otherwise, who shall receive any allowance or remittance from property out of India, shall be charged as a *feme sole* if entitled thereto in her own right, and

Profits of married woman (subject to the English law) living in India separate from her husband, how chargeable.

as the agent of the husband if she receive the same from or through him, or from his property, or on his credit.

PART VII.

Rules under Schedule 1.

Assessment of Duties imposed under Schedule 1.

XCVII. The Duties hereby imposed and contained in Schedule I. shall be assessed and charged under the following Rules, that is to say:—

SCHEDULE 1.

Profits of lands paying revenue direct to Government under settlements subject to revision, to be estimated at one-third the Government Revenue.

Rule 1. The annual profits of the proprietors or holders of lands paying revenue direct to Government not under any permanent settlement, but under any settlement liable to revision or alteration, shall be estimated at one-third of the annual amount of revenue payable to the Government. The owners or holders of such lands shall be chargeable with the amount of the annual profits so estimated.

Assessment upon such lands may be reduced on proof that the profits realised are less than one-third the Government Revenue.

Rule 2. If any owner or holder of lands included in Rule 1 shall prove to the satisfaction of the Collector or Commissioners that the actual annual profits received by him from the said lands are less in value than one-third the annual amount of revenue payable in respect of the said lands, the Collector or Commissioners shall reduce accordingly the annual amount of Duty with which such owner or holder is chargeable.

Upon application to reduce, holder, if he fails, liable to be charged with excess of profits above one-third of the Government Revenue.

Rule 3. If any such owner or holder shall object, either before the Collector or the Commissioners, to be charged with the annual value at the rate of one-third the annual amount of revenue payable on the said lands, he shall be bound to make all the returns and declarations, and be subject to the same rules as the owners or holders of lands mentioned in the following rules; and if it shall appear to the Collector or to the Commissioners that the annual profits arising from the said lands are more in value than one-third of the said annual amount of the said Government revenue, the Collector or the Commissioners shall charge such owner or holder with such increased annual value of the profits, and he shall be charged double Duty in respect thereof.

Rule 4. All persons in the actual receipt, whether as owners

All persons in receipt of rents and profits of lands and houses not included in Rule 1 to make returns, and to be chargeable with actual profits.

or not, of any rents or profits arising out of any lands or houses not included in the said first general rule, whether paying revenue to the Government or not, shall return and deliver, as aforesaid, a statement of all the several estates, tenures, sub-tenures, lands, and houses held by them, and of the nature of such estates, tenures, and sub-tenures, and of the amount of the rents and profits whereof they shall be in receipt as aforesaid, under any title whatever, and in whatever District situated, and of the rents and profits, of whatsoever nature or kind, received and receivable by them on account of every such separate estate, tenure, sub-tenure, lands, and houses as the rent or profits payable for the preceding year, that is to say, the revenue year immediately preceding the year of assessment, and shall be chargeable upon the annual amount of such rents and profits. Every return required by this Section shall be accompanied by a rent-roll containing the name of every person to whom such lands or houses or any part thereof are underlet by the person making such return, and the amount of rent payable in every such case, and every such return and rent-roll shall be filed in the Collector's Office, and shall be conclusive evidence against the person making such return in any suit for the recovery of rent as to the amount payable by any tenant included in such rent-roll for the period to which such return applies, and shall also be conclusive evidence against him in all other actions or suits, unless it shall be proved to the satisfaction of the Court or Officer before whom such return and rent-roll is offered in evidence, that any statement contained therein is erroneous, and that the error arose from accident and not from any fraudulent intention, in which case the said Court or Officer shall not be bound to treat the same as conclusive.

Provision as to co-sharers.

Rule 5. Every such person as aforesaid, who shall not receive for his own sole use and benefit the whole rents and profits of any such estate, tenure, sub-tenure, lands, or houses as aforesaid, shall state in his said return, to the best of his knowledge and belief, the name of every other person having a share therein, the extent of the respective shares of such persons, and the amount of rents and profits received by them for their own use and benefit. Any

two or more persons, being sharers in any estate, tenure, sub-tenure, lands, or houses, may render a joint return to the above effect, in which they shall specify their respective shares.

Assessment, after deducting land revenue or rent.

Rule 6. *Clause* 1. In returning such rents and profits the gross amount received and receivable during the preceding year shall be fully stated, but if the person receiving or entitled to receive the same be himself liable to pay, in respect of any land or house, any land revenue to Government, or any rent to any superior landlord, he shall state in his return the amount of such revenue and rent, and the name of the person to whom the rent is payable, and shall be charged with the said Duties on his rent and profits, whether received or not, after deducting the amount of such land revenue or of the rent so payable by him to such superior landlord.

Assessment without deduction.

Clause 2. Or at the option of the Collector or Commissioners he may be charged with the Duties on the rent and profits without making any such deduction on account of land revenue or rent.

Person so assessed may deduct from superior landlord.

Clause 3. Whenever any person shall pay the said Duties on the rent or profits of any land or house without deduction on account of any land revenue or rent payable by him in respect of such house or land, he shall have a right to deduct from any revenue or rent payable by him, as the case may be, a sum equal to the amount of the Duty computed upon such revenue or rent.

Payment deemed a payment to Government by the person from whom deduction is made.

Clause 4. A deduction from revenue or rent under the provisions of this Act shall be deemed a payment to Government by the person from whom the deduction is made of the amount so deducted.

All other persons occupying lands to return and be charged with actual profits.

Rule 7. All other persons occupying lands or houses, other than ryots and occupiers as provided in Sections CXXX. and CXXXI. of this Act, and not being the owners thereof, shall return and deliver, in manner aforesaid, the actual amount of profits realised by them from the said lands or houses during the preceding year, and shall be assessed thereon.

Rule 8. Owners of lands or of houses occupying the same,

Owners of lands or houses occupying the same to be charged at rack-rent at which the same are worth to be let.

except ryots and occupiers as last aforesaid shall be chargeable in respect of the annual value thereof at the rack-rent at which such lands or houses are worth to be let for the year.

Fines and houses on leases.

Rule 9. The said Duty shall also be assessed upon the amount received within the year preceding by or on account of any person as a fine or bonus in consideration of any lease of, or agreement to let any land or house.

Mortgagees in possession.

Rule 10. When any mortgagee or creditor having a lien on any land or house shall be in possession of the land or house mortgaged, such mortgagee or creditor, whether in the actual occupation, or in the receipt of the rents and profits of such land or house, shall be chargeable as the owner of the same, according to the Rules herein contained; and upon any settlement of accounts between such mortgagee or creditor, and the mortgagor or debtor, the Duty chargeable under this Act, in respect of the amount of the interest payable upon the mortgage or debt, shall be taken and allowed as so much money received by such mortgagee or creditor on account of such interest.

Owners dying before payment.

Rule 11. If the person who is the owner of any land or house at the time the assessment is made, shall die before payment of the Duty chargeable under this Act, the heirs, Executor, administrators, or assigns, or other person who, on the death of such person, shall become entitled to the rent or profit of such land or house, shall be liable to the payment of all arrears of the said Duty due at the time of the death of such person, and to all subsequent instalments for the same year, without any new assessment.

Houses divided into distinct portions.

Rule 12. When any house shall be divided into distinct portions, and such portions shall be occupied by distinct owners or their respective tenants, such owners shall be liable for their respective proportions of the Duties chargeable under this Act.

No deduction allowed unless expressly authorized and stated in writing.

Rule 13. No deduction from the assessment of any land or house shall be allowed in any case, unless the same shall be authorized by this Act, nor unless an account in writing, signed by

the party claiming such deduction, stating the nature and amount thereof, shall have been delivered to the Assessor within the time, and pursuant to the notice given by such Assessor. Provided it shall be lawful for any local Government to authorize a deduction to be made in respect of any extraordinary or unusual charge to which the property is subjected.

Surcharge for deductions made contrary to Act.

Rule 14. If any such deduction shall be made contrary to this Act, or without such account in writing as aforesaid, the person making the same shall be surcharged with the amount of such deduction.

Rent received in grain or produce.

Rule 15. When the rent of any land shall depend wholly or in part on the price of any kind of grain, or on the actual produce of the land, the computation for the purpose of charging the Duties in Sehedule 1 of this Act, in respect either of the price or quantity of such produce, shall be made, and the amount to be assessed shall be ascertained, according to the rules and in the manner by which such rent has been usually ascertained in the same District between landlord and tenant, and the Collector or Commissioners shall in such cases determine according to what rules and in what manner it has been usual, in the said District, to ascertain the amount of such rent between landlord and tenant.

Duty to be assessed on lands and houses whether occupied or not.

Rule 16. The Duty shall be assessed on all lands and houses, whether occupied at the time of assessment or not.

Remission of assessment on unoccupied houses.

Rule 17. The said Duty shall not be levied on any house which shall be unoccupied for such year or portion of the year as the same shall be unoccupied, but the assessment thereupon for such year, or portion of the year as aforesaid, shall, upon appeal, be discharged or diminished by the Collector or Commissioners, on due proof of the time during which such house remained unoccupied.

Power to appoint Valuer.

Rule 18. If any dispute shall arise touching the annual value of any land or house, and the Collector or Commissioners shall deem it necessary, or the person chargeable shall desire, that a valuation thereof shall he made by any competent person, it shall be lawful for the Collec-

tor or Commissioners to direct that a valuation be made by any such person to be named by the Collector or Commissioners, the costs and charges whereof shall abide the final determination of the Collector or Commissioners, and to require the just valuation to be verified on the oath or solemn affirmation of the person making the same. If the person chargeable, after having desired such valution, or any person instigated by him, shall obstruct or resist the making of such valuation, the Collector or Commissioners shall make an assessment according to the best of their judgment without such valuation.

Costs of valuation by whom to be paid.

Rule 19. It shall be competent to the Collector or Commissioners, in every case where the valuation so made shall exceed the value put upon the said land or house by the person chargeable, to direct that the costs and charges attending the same shall be paid by him; but if they shall be of opinion that such costs and charges have not been incurred through any fault of such person, they shall direct the same to be paid by the Collector of the District, who, on the certificate of the Collector or Commissioners present at the time of the determination, shall pay the same.

Deduction in favor of owners where rent reduced in consequence of flood, drought, or tempest.

Rule 20. Whenever, by any flood, drought, or tempest, loss shall be sustained on the growing crops, or on the stock on lands let to tenants, or the lands, or any part thereof, shall by such flood, drought, or tempest, be rendered incapable of cultivation for any year, and it shall be proved to the satisfaction of the Collector or Commissioners that the owner of the said land, or the person in receipt of the rents thereof, has, in consideration of such loss, abated or agreed to abate to any tenant the whole or any proportion of the rent reserved or payable by such tenant for any year of such lease, it shall be lawful for the Collector or Commissioners to abate in the assessment made in respect of the said lands for the same year for which such rent has been abated, and to discharge therefrom the whole or the like proportion of Duty as the said owner shall be proved to have abated from the rent reserved and made payable to him on such lease.

A similar provision in favor of occupiers.

Rule 21. It shall also be lawful for the Collector or Commissioners, in every such case, to abate in the assessment made in respect of the occupation

of the said land for the same year, and to discharge therefrom the like proportion of Duty as shall have been abated or discharged from the assessment made in respect of the property on the said land for the cause aforesaid.

A similar provision as to lands in occupation of owner.

Rule 22. Whenever, from any of the causes aforesaid, the like loss shall be sustained on any land in the occupation of the owner, and the same shall be proved to the satisfaction of the Collector or Commissioners, it shall be lawful for the Collector or Commissioners to abate in the assessment made in respect of the said land, and to discharge the whole or any part of the said Duty, in proportion to the loss so sustained, and to the amount which the Collector or Commissioners shall be of opinion would or ought to have been abated as aforesaid, if the said land had been let to a tenant, and a proportionate abatement had been made to such tenant under the circumstances of the said loss.

Deductions for loss caused by insolvency or absconding of tenants.

Rule 23. Whenever any loss of rent shall be sustained by the owner or landlord of any land occasioned by the insolvency or absconding of the tenant or occupier by whom such rent was payable, or by the fraudulent assignment or removal of his goods, or by reason of such land being left unoccupied or waste, and the same shall be established to the satisfaction of the Collector or Commissioners, it shall be lawful for the Collector or Commissioners to abate in the assessment made in respect of the said land, and to discharge the whole or any part of the said Duty in proportion to the loss so sustained.

PART VIII.

Rules under Schedule 2.

Assessment of Duties under Schedule 2.

XCVIII. The Duties hereby imposed contained in the Schedule marked 2 shall be assessed and charged under the following Rules:—

SCHEDULE 2.

The said Rules shall extend and apply to every description of property or profits which shall not be contained in either Schedule 1 or Schedule 3, and to every description of profession or employment of profit not contained in Schedule 4, and not specially exempted from the said Duties, and shall be charged annually on, and paid by the person receiving or entitled to the same, and his representatives.

FIRST CASE.—*The Duties to be charged in respect of any Trade.*

Computation of Duties to be charged for the preceding year.

Rule 1. The Duties to be charged in respect of any trade shall be computed upon a sum not less than the full amount of the profits of such trade during the preceding year, that is to say, during one year ending on the day of the year immediately preceding the year of assessment on which the accounts of the said trade shall have been usually made up, or on the 30th day of April preceding the year of assessment, and shall be assessed and paid without other deduction than is hereinafter allowed. Provided that any profits made in respect of any trade or adventure carried on entirely out of India and which shall be in no way connected either with the products of India exported there-from or with any manufactures or products whatever purchased out of India and imported or to be imported into India, shall be exempted from any charge under this Act, unless such profits be received in India.

Proviso as to profits of trade &c. carried on out of India.

Computation when the trade has been commenced within the preceding year.

Rule 2. When the trade shall have been set up and commenced within the period of one year, or within the year of assessment, the computation shall be made according to an average of the profits for such period as the Collector or Commissioners shall, under the circumstances, direct.

Description of trades chargeable under Schedule 2.

Rule 3. The Duties under Schedule 2 shall extend to every trade, whether the same be connected with the occupation and use of land or not, including among others the following persons: Railway Companies, Canal Companies, Steam Navigation Companies, Irrigation Companies, Docking Companies, Coal Companies, Gas Companies, Mining Companies, Tea Companies, Indigo Planters and Manufacturers, Coffee Planters, Sugar Planters, Tea Planters, Silk Manufacturers, Holders of Silk Filatures, and all Companies and persons holding or using land for the purpose of manufacturing the produce thereof and selling such produce when manufactured, or for any purpose of the nature of trade or manufacture, whether such Companies or persons are subject to the Bankrupt or Insolvent Laws as traders or not. The foregoing enumeration shall not be construed to exclude any person not expressly specified therein, who would, but for such enumeration, have been deemed to be included therein under the general words of this Rule.

No deduction to be allowed in computation, except those specified.

Rule 4. In estimating the profits or income chargeable under Schedule 2, or for the purpose of assessing the Duties thereon, no sum shall be allowed to be set against or deducted from such profits or income on account of any sum expended for repairs of premises occupied for the purpose of such trade, manufacture, or concern, nor for any sum expended for the repairs of any implements, utensils, or articles employed for the purpose of such trade, manufacture, or concern, beyond the sum usually expended for such purposes, according to an average of three years preceding the year in which such assessment shall be made; nor on account of loss not connected with, or arising out of such trade; nor on account of any capital withdrawn therefrom, nor for any sum employed or intended to be employed as capital in such trade; nor for any capital employed in improvement of premises occupied for the purposes of such trade, manufacture, or concern; nor on account of any interest which might have been made on such sums if laid out at interest; nor for any debts, except bad debts proved to be such to the satisfaction of the Collector or Commissioners.

No deduction on account of annuities payable out of profits.

Rule 5. In estimating the amount of the profits or income arising as aforesaid no deduction shall be made on account of any annual interest, or any annuity or other annual payment paid or payable to any person out of such profits.

SECOND CASE.—*The Duties to be charged in respect of professions or employments not contained in any other Schedule of this Act.*

Duties chargeable on all employments, whether annual or not.

Rule 6. The Duties on professions or employments shall be construed to extend to every profession and employment in any character whatever, for whatever period, and to all profits and earnings, of whatever value, subject only to such exemptions as are hereinafter mentioned.

Period of computation.

Rule 7. The Duties to be charged shall be computed at a sum not less than the full amount of the balance of the profits and income of such profession or employment (after making such deductions as by this Act are allowed) within the preceding year, ending as in the first case, to

be paid on the actual amount of such profits or income, without any deduction, subject to the like provisions as are made in the first case in Rule No. 2, in respect of the period of computation in the case of setting up or commencing such profession or employment within the year preceding the year of assessment, or within the year of assessment.

4th and 5th Rules of Case 1 applicable to Case 2.

Rule 8. The fourth and fifth Rules in the first Case shall also extend to the profits arising under the second Case, as far as they are applicable.

Rules applying to both the preceding Cases.

Disbursements which are not to be allowed in computing profits under Schedule 2.

Rule 9. In estimating the profits or income to be charged according to either of the first or second Cases, no sum shall be allowed to be set against or deducted from such profits or income for any disbursements or expenses whatever, not being money wholly and exclusively expended for the purposes of such trade, or of such profession or employment, nor for any disbursements or expenses of maintenance of the parties, their families, or establishments, nor for the rent or value of any dwelling-house or domestic offices, or any part of such dwelling-house or domestic offices, except such part thereof as may be used for the purposes of such trade, profession, or employment, not exceeding the proportion of the said rent or value hereinafter mentioned, nor for any sum expended in any other domestic or private purpose distinct from the purposes of such trade, or of such profession or employment.

Duties to be computed inclusive of profits arising from lands connected with trade.

Rule 10. The computation of the Duties to be charged in respect of any trade, profession, or employment, whether carried on by any person singly or by any two or more persons jointly, or by any Corporation, Company, or Society, shall be made inclusive of the profits or income arising from any land or house occupied for the purpose of such trade or of any profession or employment.

Computation in the case of several persons in partnership.

Rule 11. The computation of Duties arising in respect of any trade, profession, or employment carried on by two or more persons jointly, shall be made and stated jointly and in one sum, and separately and distinctly from any other Duty chargeable on the same persons or either or any of them.

Rule 12. The return of the partner who shall be first named in the deed, instrument, or other agreement of co-partnership, or where there shall be no such deed, instrument, or agreement, then of the partner who shall be named singly, or with precedence to the other partner or partners, in the usual name, style, or firm of such co-partnership, or where such precedent partner shall not be an acting partner, then of the precedent acting partner, and who shall be resident in India, shall be sufficient authority to charge such partners jointly.

Return of partner first named in deed or of precedent acting partner resident in India, sufficient authority to charge partners jointly.

Rule 13. Every such partner who shall be so first named as aforesaid, and such precedent partner or precedent acting partner as aforesaid resident in India, is hereby required, under the penalty herein contained for default in making any return required by this Act, to make such return on behalf of himself and the other partner or partners, whose names and residences shall also be declared in such return.

Liability of such partner to penalty for default in making returns.

Rule 14. Where no such partner shall be resident in India, then the statement shall be prepared and delivered by their agent, manager, or factor, resident in India, jointly for such partners, and such joint assessment shall be made in the partnership, name, style, or firm, and no separate statement shall be allowed in any case of partnership, except for the purpose of the partners separately claiming an exemption as herein directed, or of accounting for separate concerns.

Where no such partner is resident in India.

Rule 15. Any partner being entitled to exemption, shall declare the proportion of his share in such partnership, trade, or profession, in order to a separate assessment. For the above purpose, it shall be lawful to charge the partners in such partnership separately; but if no such claim be made, and in any other case, such assessment shall be made jointly, according to the amount of the profits and gains of such partnership.

Case of separate assessment.

Rule 16. Any partner in such trade, profession, or employment, who shall have been already returned by such precedent partner as aforesaid, may return his name and place of abode, and that

Partners returned by precedent partner may return their own names.

he is such partner, without returning the amount of Duties payable in respect thereof unless the Collector or Commissioners shall think proper to require a further return, in which case it shall be lawful for the Collector or Commissioners to require from every such partner the like return as they are hereby entitled to require from the precedent partner.

Rule as to change in partners.

Rule 17. If amongst any person engaged in any trade, or in any profession or employment in partnership together, any change shall take place in any such partnership, either by death or dissolution of partnership as to all or any of the partners, or by admitting any other partner therein before the time of making the assessment, or within the period for which the assessment ought to be made under this Act, or if any person shall have succeeded to any trade, or any profession or employment, within such respective periods as aforesaid, the Duties payable in respect of such partnership, or any of such partners, or any person succeeding to such profession, trade, or employment, shall be computed and ascertained according to the profits and income of such business derived during the respective periods herein mentioned, notwithstanding such change therein or succession thereto as aforesaid, unless such partners or such persons succeeding to such business as aforesaid shall prove, to the satisfaction of the Collector or Commissioners, that the profits or income of such business have fallen short, or will fall short, for some specific cause, to be alleged to them, since such change or succession took place and by reason thereof.

Statement of profits to include every source of profit.

Rule 18. Every statement of profits or income to be charged under this Schedule shall include every source so chargeable on the person delivering the same on his own account or on account of any other person.

Statement of profits on behalf of other persons or of Corporations, Companies, or Societies.

Rule 19. Every such statement on the behalf of any other person, for which such person shall be chargeable as acting in any of the characters before described, or on the behalf of any Corporation, Company, or Society, shall include every source chargeable as last aforesaid, and shall be delivered in that District where such person, Corporation, Company, or Society would be chargeable, if acting on his or their own behalf.

THIRD CASE.—*The Duties to be charged in respect of profits of an uncertain yearly value not charged in Schedule* 1.

Rule as to profits of uncertain yearly value.

Rule 20. The Duties to be charged in respect of profits of uncertain yearly value not charged in Schedule 1, shall be computed at a sum not less than the full amount of the profits arising therefrom within the preceding year, ending as in the first Case, to be paid on the actual amonnt of such profits, without any deduction.

Rule as to profits on securities not included in Schedule 3.

Rule 21. The profits on all securities bearing interest payable out of the public revenue, (except securities herein directed to be charged under the rules of Schedule 3,) and on all discounts and on all interest of money, not being annual interest, shall be charged according to the last preceding Rule in this Case.

FOURTH CASE.—*The Duties to be charged in respect of Interest or Income arising from any property situated out of British India, whether in any other part of Her Majesty's Dominions or not.*

Computation of Income arising from property out of British India, to be made according to receipts of preceding year.

Rule 22. The Duties to be charged on any person residing in India, in respect of any interest or income arising from any property situated out of India, whether in any other part of Her Majesty's Dominions or not, if such interest or income is received or intended to be received in India, shall be computed on a sum not less than the full amount of the actual sums which have been received in India during the preceding year, without other deduction or abatement than is herein allowed.

FIFTH CASE.—*The Duties to be charged in respect of any annual profits or income not falling under any of the foregoing Rules, and not chargeable under any other Schedules.*

Computation of profits not falling under any of the foregoing Rules.

Rule 23. The nature of any profits or income not falling under any of the foregoing Rules, and the principle on which the amount thereof shall have been computed, and the average taken thereon (if any,) shall be stated in the return made by the party in this behalf, and the computation shall be made either on the amount of the full value of the profits or income received annu-

ally, or according to an average of such period, not exceeding one year, as the case may require, and as shall be directed by the Collector or Commissioners, and such statement and computation shall be made to the best of the knowledge and belief of the person in receipt of the said profits or income or entitled thereto.

General Rules.

When one person, or one firm consisting of the same persons, carries on two distinct trades, losses in one trade may be set off against profits in the other.

Rule 24. Any person carrying on in the same Presidency Town, Station in the Straits Settlement, or District, two or more distinct professions, trades, or employments, the profits whereof are made chargeable under the Rules of Schedule 2, and in each of which he is solely interested; or any two or more persons carrying on in the same Presidency Town, Station in the Straits Settlement, or District, in partnership with each other, two or more distinct professions, trades, or employments, in each of which the same persons alone are interested, may deduct and set off against the profits acquired in one or more of the said professions, trades, or employments, the excess of the loss sustained in any other of the said professions, trades, or employments, over and above the profits thereof, in such manner as may be done under this Act, where a loss may be deducted from the profits of the same trade.

In such cases separate statements of profits and losses to be made.

Rule 25. Such person or persons shall, in such cases, make separate statements of the profits and losses of the said several trades.

Deduction for two-thirds of rent of houses occupied for purpose of trade or profession.

Rule 26. Any person carrying on any profession, trade, or employment, either alone or in partnership, renting a house, part of which shall be used by him for the purposes of any profession, trade, or employment hereby charged, may deduct and set off from the profits of such profession, trade, or employment such sum, not exceeding two-third parts of the rent *bonâ fide* paid for such house, with the appurtenances, as the Collector or Commissioners shall think fit to allow, and the Collector or Commissioners shall have authority to allow such deductions as in other cases, and to assess such person accordingly.

Rule 27. Upon all annuities, yearly interest of money, or

Duty to be charged on all annual interest not otherwise charged under this Act.

other annual payments, whether such payments shall be payable within or out of India, either as a charge on any property of the person paying the same by virtue of any deed, or will, or otherwise, or as a reservation thereout, or as a personal debt or obligation by virtue of any contract, or whether the same shall be received and payable half-yearly or at any shorter or more distant periods, the Duties payable under this Act shall be charged upon the annual amount thereof without deduction, subject to the provisions by which the Duties in the third Case of Schedule 2 may be charged.

On whom Duties to be charged.

Rule 28. In every case in which such Duties shall be payable out of profits brought into charge by virtue of this Act, no assessment shall be made upon the the person entitled to such annuity, interest, or other annual payment, but the whole of such profits shall be charged with the said Duties on the person liable to such annual payment.

Interest from profits charged liable to deduction.

Rule 29. The person so liable to make such annual payment, whether out of the profits charged with Duties, or out of any annual payment liable to deduction, or from which a deduction shall have been made, shall be authorized to deduct out of such annual payment the Duties payable thereon under this Act.

At what rate of Duties deduction to be allowed.

Rule 30. The person to whom such payment, liable to deduction, is to be made, shall allow such deduction at the full rate of Duties hereby directed to be charged upon the receipt of the residue of the money.

Acquittance and discharge of amount of deduction.

Rule 31. The person charged to the said Duties, having made such deduction, shall be acquitted and discharged of so much money as such deduction shall amount unto, as if the amount thereof had actually been paid to the person to whom such payment shall have been due and payable.

All other interest how to be charged.

Rule 32. When any annual payment as aforesaid shall, by reason of the same being charged on any property or security not being in India or otherwise, be received or receivable without any such deduction as aforesaid, and when any such payment shall be made from profits not charged by this Act, or when any interest of money shall not

be reserved or charged, or payable for the period of one year, then and in every such case there shall be charged upon such interest, annuity, or other annual payment as aforesaid, the Duties herein mentioned according to, and subject to the several provisions by which the Duties in the third Case of Schedule 2 may be charged.

Deduction on payment of interest of money and other payments from profits under Schedule 2 to be made under a certificate.

Rule 33. Whenever it shall be proved to the satisfaction of the Collector, or Commissioners acting in the place where any person making the application shall reside, that any annuity, interest of money, or other annual payment shall be annually paid out of the profits *bonâ fide* accounted for and charged by virtue of this Act, at the rate and according to the Rules specified in Schedule 2, without any deduction on account thereof, it shall be lawful for the Collector or Commissioners to grant a certificate thereof under the hands of any one of them, in the form to be prescribed as aforesaid, which certificate shall entitle the person so assessed, upon payment of such annuity, interest, or other annual payment, to deduct so much thereof as a like rate on such annuity, interest, or other annual payments would amount unto. But no such certificate shall be required where such payments are to be made out of the profits arising from any land or house as before mentioned, or of any office or employment of profit, or out of any annuity, or pension, or any dividend or share in such public annuities as are herein mentioned, but such deductions in all such cases may be made without having obtained such certificate.

In what cases deductions may be made without certificate.

Rules as to Districts in which persons are chargeable.

Where Corporations, Companies, or Societies are chargeable.

Rule 34. Every Body Corporate, Company, or Society shall be charged to the Duties contained in this Act by the Collector or Commissioners acting for the place where the head Office in India of such Body Corporate, Company, or Society is situate.

Where householders, other than persons engaged in any trade, profession, or employment, are chargeable.

Rule 35. Every person being a householder, except persons engaged in any trade, profession, or employment, shall be charged to the said Duties contained in Schedule 2 by the Collector or Commissioners acting for the place where the dwelling-house of such person shall be situate.

Rule 36. Every person engaged in any trade, profession, or

Where persons engaged in any trade &c., are chargeable.

employment shall be charged to the said Duties contained in the said Schedule 2, by the Collector or Commissioners acting for each place where such trade shall be carried on or such profession or employment shall be exercised.

Where manufacturers to be assessed.

Rule 37. When any trade shall be carried on in India by the manufacture of goods, wares, or merchandize, the assessment thereon shall be at the place of manufacture, although the sale of such goods, wares, or merchandize shall be elsewhere.

Where persons, not being householders, nor engaged in trade, &c., are chargeable.

Rule 38. Every person not being a house-holder, nor engaged in any trade, profession, or employment, who shall have any place of ordinary residence, shall be charged by the Collector or Commissioners acting for the place where such person shall ordinarily reside.

Where persons not hereinbefore described are chargeable.

Rule 39. Every person not hereinbefore described shall be charged by the Collector or Commissioners acting for the place where such person shall reside at the beginning of each year.

Every charge made as aforesaid not affected by subsequent removal.

Rule 40. Every such charge shall be valid and effectual, notwithstanding the subsequent removal of the person so charged from such place.

Persons not engaged in trade, having more than one dwelling-house where chargeable.

Rule 41. Every person not being engaged in any trade, profession, or employment, having two or more houses at which he shall be ordinarily resident, shall be charged by the Collector or Commissioners acting for each place where such houses shall be situate.

Persons having more than one residence, or carrying on trade in different places, shall be called on to make returns at each place.

Rule 42. Every person having two or more residences, or carrying on any trade, or exercising any profession or employment in different places, or in any place different from the place of his ordinary residence, shall be served with a notice in each of such places, and shall deliver in each of such places the like returns and declarations as he is required to deliver by this Act. Such person shall in each of his returns state all the places in which he carries on any trade, or exercises any profes-

sion or employment, the place of his ordinary residence, and the place where he resided at the beginning of the current year.

Profits from foreign possessions to be charged in Districts where persons chargeable reside or carry on trade.

Rule 43. The Duties to be assessed by virtue of this Act, in respect of the profits or income arising from possessions or securities out of British India, whether within any other of Her Majesty's dominions or not, shall be stated to and assessed by the Collector and Commissioners respectively acting for the place where the person receiving or entitled to the same shall reside or carry on any trade or profession.

No person chargeable in different places to be liable to double payment.

Rule 44. No person who shall be liable to be charged in different places under this Act shall be liable to any double payment in respect of the same property or source of income.

Rules for Temporary Residents in India.

Temporary residents to be charged in respect of income and profits out of India after six months' residence, but not before.

Rule 45. No person who shall, on or after the passing of this Act, be in India for some temporary purpose only, and not with any view or intent of residing therein for a period exceeding six months in the whole from the commencement of such residence, and who shall not actually have resided in India at one time or at several times for a period equal in the whole to six months in any one year, shall be charged with the Duties mentioned in Schedule 2 as a person residing in India in respect of the profits or income received from or out of any possessions, property, or securities, not being in India, or from any trade, profession, or employment not carried on in India.

Duties where and for what year chargeable.

Rule 46. Every such person, if he shall actually reside or remain in India for such period as aforesaid, shall be chargeable to the said Duties in the place in which he shall reside or be, for the year commencing on the 1st day of August preceding.

Persons quitting and returning to India and completing within the year of assessment a residence of six months, liable for the whole year.

Rule 47. Every such person who, having quitted India as aforesaid, shall return to India and complete within the year of assessment a residence of six months, shall be chargeable to the said Duties in the place wherein he shall reside or be, as a person residing in India, for the whole of the year in which such assessment shall have been made.

General Rule.

Rule 48. All returns and declarations, containing the amount of profits or income charged under Schedule 2, may be delivered sealed up, if superscribed with the name and place of abode of, or place of exercising the profession or employment, or carrying on trade by the person by whom the same shall have been made.

Returns and declarations may be delivered sealed, but superscribed with name and address of the party.

PART IX.

Rules under Schedule 3.

XCIX. The Duties hereby imposed contained in the Schedule marked 3 shall be assessed and charged under the following Rules, that is to say:—

Assessment of Duties under Schedule 3.

SCHEDULE 3.

Rule 1. The said last-mentioned Duties shall be assessed by the Ex-Officio and Special Assessors herein authorized to make the assessment on any interest, annuities, dividends, or shares of annuities charged in the said Schedule 3, and shall be deducted by the officers and persons entrusted with the payment of such interest, annuities, dividends, or shares of annuities on behalf of the persons entitled thereto. Such Duties shall extend to all interest, annuities, dividends, or shares of annuities whatever payable in India, out of any public revenue, which shall become due on or after the 1st day of August 1860.

Duties to be paid to Officers entrusted with payment of interest or annuities.

Rule 2. All Promissory Notes of the Government of India which shall be enfaced for payment of the interest thereon out of India either by Drafts or Bills on India or otherwise, shall in all cases be enfaced subject to the condition that the amount of any Duties which may at any time be chargeable in India in respect of such interest, shall be deducted therefrom at the place where the interest shall be paid, or the Drafts or Bills shall be given.

Government Promissory Notes enfaced for payment of Interest out of India.

Rule 3. The officers and persons entrusted with the payment of the said interest, annuities, dividends, or shares of annuities shall set apart and retain the amount of Duties so assessed on the interest, annuities, dividends, and shares for the purposes of this Act.

Officers entrusted with payment of interest to set apart and retain Duties.

Rule 4. Every such setting apart and retaining of the said

Such setting apart and retention to be deemed a payment.

Duties shall be deemed a payment thereof by, or on the behalf of, the persons entitled to the said interest, annuities, dividends, and shares of annuities respectively.

Rule 5. All persons are hereby required, on receipt of the residue of the said interest, annuities, dividends, and shares of annuities over and above the Duties so assessed, to allow such payment in respect of the said assessment.

Such payment to be made on receipt of residue.

Rule 6. The officers and persons entrusted as aforesaid, and the Secretary of State in Council, and all persons responsible for the due payment of such interest, annuities, dividends, and shares of annuities, shall be acquitted and discharged of and from so much money so set apart and retained as aforesaid, as if the same had actually been paid to the persons to whom such interest, annuities, dividends, and shares did, or might belong, or were by law payable.

Acquittance and discharge in respect of such payments.

PART X.

Rules under Schedule 4.

C. The Duties hereby imposed, contained in the Schedule marked 4, shall be assessed and charged under the Rules hereinafter mentioned; and the said Duties shall be annually charged on the persons respectively holding or exercising the officers or employments of profit mentioned in Schedule 4, or to whom the annuities, pensions or salaries mentioned in the said Schedule shall be payable. The Duties in respect of every annuity, pension, or salary shall be assessed upon the amount of such annuity, pension, or salary, and the Duties in respect of every office or employment shall be assessed upon the amount of all salaries, fees, commissions, or other profits accruing by reason of such office or employment, whether the same be paid by Government, or received from any other person whatever, or be deducted by the person holding such office or employment from any funds in his possession.

Assessment of Duties under Schedule 4 on salaries, perquisites, or profits of offices, annuities, salaries, and pensions.

CASE 1.—*Public offices, and employments; and annuities, pensions, and salaries payable by the Government of India.*

Rule 1. Every assessment in respect of every such annuity,

Assessment when to be made.

and pension, and salaries, and every assessment in respect of every salary or payment made by Government to any public officer, shall in cases requiring audit be made at the time of audit, and in all other cases at the time of payment.

Rule 2. The said Duties shall be paid on the profits or income arising from any public office or employment of the description hereinafter mentioned, or arising to any of the officers hereinafter mentioned when serving in India.

Descriptions of offices charged.

(1.) Any office or employment held under the Government, of the salary whereof, or emoluments attached whereto, are payable by the Government, or out of any public revenue in India.

(2.) Any Commissioned Officer belonging to Her Majesty's Army or to Her Majesty's Indian Forces.

(3.) Any Commissioned Officer in Her Majesty's Navy, in respect of any emoluments received by him from the Government of India.

(4.) Any Commissioned Officer in the Indian Naval Forces of Her Majesty, or in the Marine Establishment.

(5.) Any Office or employment of profit held in any Court of Justice.

(6.) Any office or employment of profit under any public institution, or on any public foundation, of whatever nature, or for whatever purpose the same may be established.

(7.) And every other public office or employment of profit of a public nature.

Rule 3. Every public officer chargeable under Schedule 4 of this Act in respect of any fees, commissions, perquisites, or profit not being salaries to be assessed under Rule 1, shall be subject to and shall be assessed under the provisions of the 4th part of this Act, and such fees, commissions, perquisites, and profits shall be estimated on the receipts in respect thereof during the preceding year ending on the 30th of April, or on any other day on which the accounts of such fees, commissions, perquisites, and profits have been usually made up.

Fees or perquisites to be estimated on profits of preceding year.

CASE 2.—*Rules for offices or employments of profit under any Company in India.*

Assessment by whom to be made.

Rule 4. When the salaries, perquisites, or profits of any person chargeable with the Duties under Schedule 4 shall arise from any office or employment of profit under any Company in India, in whose employment the person chargeable shall be, the assessment shall be made by an Assessor who shall be specially entrusted with the duty of making such assessment by the Collector or Commissioners of the place where such Company shall have its head office.

Persons assessed for offices to be deemed to have exercised the same at the head office.

Rule 5. Every person holding any office or employment in or under any Company in India as aforesaid, shall be deemed to have exercised the same at the head office in India of the Company under which such office or employment shall be held, and shall be assessed for such office or employment, as if exercised at such office, although the duties of such office or employment shall be performed, or any part of the profits arising from such office or employment shall be payable elsewhere, whether within or out of India.

Assessor to prepare an abstract of assessments.

Rule 6. The Assessor appointed to make assessments under these Rules shall, as soon as such assessment is completed, make an abstract of the same in the form to be prescribed as aforesaid, and shall forward such abstract to the Collector or Commissioners of the place where such head office is held, and shall deliver a copy of the same at such head office. If the Assessor be not satisfied with the return made on behalf of such Company by the Treasurer or other officer making the same under Section LXXXIX. and XCI. of this Act, he shall enter his remarks thereon in the said abstract, and shall further assess the officers employed by such Company at such rate as he shall think right. Thereupon the same proceedings shall be taken by the Collector and Commissioners as in the case of individual returns as hereinbefore provided.

Duties where and how payable.

Rule 7. The Duties payable on all such assessments shall be paid at the head office in India of such Company, by the Treasurer or other officer of such

Company, whose duty it is to pay the salaries of such Company at such office.

Full value of offices to be stated, although exemption claimed.

Rule 8. When any person holding any such office or employment, in or under any Company in India, shall claim to be exempt from such assessment, the Assessor shall nevertheless set down in such assessment the name of such person, and the full and just annual value of his office or employment, and the claim to such exemption shall be preferred to and examined by the Collector or Commissioners, and the merits thereof shall be heard and determined by the Collector or Commissioners under the regulations of this Act with respect to other assessments.

Commissioners to deliver duplicates of assessments to collecting officers.

Rule 9. The Collector or Commissioners shall cause the like duplicate to be made of the said assessments and delivered to collecting officers with like warrants to collect the said Duties, as are by this Act directed to be given to collecting officers for any Districts.

Duties on offices which cannot be stopped, to be certified in case of nonpayment.

Rule 10. When the Duties hereby chargeable upon any office or employment of profit cannot be detained and stopped according to the provisions of the following Rule 11, or the amount of such Duties shall have been paid over to the person holding or exercising the said office or employment, and such person shall refuse or neglect to pay the sum of money charged upon him, the Assessor for assessing the Duties on the said offices shall certify in writing to the Collector or Commissioners such neglect or refusal, and the sum payable by virtue of this Act. The collecting officer thereupon shall levy the said Duties by the like ways and means, and under the like powers as are herein provided in regard to the Duties under Schedules 1 and 2, and as if such officer or person were charged to the said Duties in such District.

Collecting officer to levy the Duties

CASE 3.—*Rules applicable to both Cases.*

Assessment how to be enforced.

Rule 11. The sums assessed under the foregoing Sections shall be stopped out of any money which shall be payable to the persons assessed in respect of any salaries, perquisites, profits, and pensions so assessed or the arrears thereof.

Rule 12. In estimating the Duties payable for any such office or employment of profit, or on any annuity, pension, or salary, all official deductions and payments made upon the receipt of the salaries, perquisites, and profits thereof, or in passing the accounts belonging to such office, or upon the receipt of such annuity, pension, or salary, shall be deducted.

No Duties on account of official deductions from salaries, &c.

Rule 13. When any person, holding any office or employment of profit in respect of which he is liable under these Rules, shall, at any time during or in respect of any year of assessment, become entitled to any additional salary, perquisite, or profits beyond the amount for which any assessment may have been made upon him, beyond the amount for which, at the commencement of such year, he may have been liable to be assessed, an additional assessment shall, from time to time, as often as the case shall require, be made upon such person for such additional salary, perquisite, or profits, so that he shall be assessed and charged for the full amount of the whole of the salary, fees, and emoluments, which he shall receive or become entitled to at any time, and from time to time, during or in respect of the said year of assessment.

Public offices becoming entitled to increased salaries to be charged for the same by supplemental assessment.

Rule 14. Such portion of the said Duties under Schedule 4 on offices or employments of profit, or on annuities, pensions, or salaries as is charged upon any sum of money payable to any other person, shall be deducted out of the sum payable to such other person; and such person, his agent, or receiver, shall allow such deductions and payments upon receipt of the residue of such sums.

Duties charged on sums payable to any other person to be deducted out of the same.

Rule 15. Such portion of the Duties as shall be charged on any office or employment of profit executed by any deputy or clerk, or other person employed under the principal in such office, and paid by such principal out of the salary or profits of such principal, shall be deducted out of the salary or profits so payable, and all such deputies, clerks, and other persons so employed shall allow to their respective principals such deductions and payments upon the receipt of the residue of such salaries or wages.

Duties paid by the principal in an office upon salary paid to a deputy or clerk to be deducted out of such salary.

Rule 16. If any office or employment of profit chargeable by Schedule 4 shall be executed by deputy, such deputy shall, in all cases where he shall be in the receipt of the profits thereof, be answerable for and shall pay such Duties as shall be charged thereon, and deduct the same out of the profits of such office or employment.

Deputy to pay for principal when in receipt of the profits.

Rule 17. When the salaries, fees, or profits of any officer or officers chargeable under this Schedule shall be receivable by any one or more of the said officers for the use of such officers, to be divided amongst such officers in certain proportions, the officer or officers receiving such salaries, fees, or profits shall be answerable for the Duties charged thereon, and shall pay and deduct the same out of the funds provided for such respective offices or employments before any division or apportionment thereof.

Officers receiving salaries or fees to be answerable for Duties.

Rule 18. Such portion of the said Duties as shall be stopped and deducted under this Schedule shall be stopped and deducted at such times in each year as the said sums shall be payable to the person entitled thereto.

Duties when to be deducted.

PART XI.

Discretionary modes of Assessment in particular Districts.

CI. Except in the Presidency Towns and Stations of the Straits Settlement, it shall be lawful for the local Government, from time to time, to order that the assessment under Schedule 1 or Schedule 2 of this Act, in any part of the territories under such Government, or among any class of inhabitants of any part of such territories, or in respect of any one or more of the inhabitants of such territories, shall be made by Punchayet, to consist of not less than three persons, or by the Collector or by any officer whom such local Government shall specially appoint for the purpose.

Assessment by whom to be made in places other than the Presidency Towns or Straits Settlement.

CII. When the assessment is ordered to be made by Punchayet, the Members of the Punchayet shall be appointed by the Collector or by any Deputy Collector specially authorized to make assessment under Section XXII. of this Act.

Appointment of Punchayet.

CIII. If the assessment is ordered to be made by the Collec-

When Collector &c. is ordered to make assessments.

tor or other officer aforesaid, such Collector or other officer shall be guided in making the assessment by the general provisions of this Act, and all returns of profit and income, or other returns required by this Act, shall be made to such Collector or other officer.

CIV. If any person residing in any place in which the assessment is ordered to be made by Punchayet shall, before any proceedings are taken by the Punchayet, object to be assessed by Punchayet, such person shall be assessed by the Collector or by any officer specially appointed as aforesaid under the ordinary provisions of this Act, as if no such order for assessment by Punchayet had been made.

If any person object to be assessed by Punchayet.

CV. If the Collector shall not be satisfied with the assessment made by the Punchayet, he may require the Punchayet to reconsider and revise the same.

Collector may require Punchayet to reconsider and revise assessment.

CVI. If the Collector shall not be satisfied with the assessment made by the Punchayet after he shall have required them to reconsider the same, or if the Punchayet shall refuse or neglect to revise and alter the same to the satisfaction of the Collector, the Collector shall certify that he is dissatisfied with the assessment made; and thereupon no further proceedings shall be held under the said order; but the several persons in the territories affected by such order, and chargeable with the said Duties, shall be assessed to the said Duties in the manner prescribed in and according to the ordinary provisions of this Act, and shall be liable to make all the returns and declarations, and to do the several acts and things in order to the said assessment, and shall be subject to the same proceedings as in this Act provided, as if no such order had been made.

If the Collector be dissatisfied, the assessment shall be made according to the ordinary provisions of this Act.

CVII. If the Collector shall be satisfied with the assessment made by the Punchayet as aforesaid, he shall confirm the same, and shall cause proclamation to be made in the part of the District where the persons affected thereby reside, that he has confirmed the said assessment.

Collector, if satisfied, shall confirm the assessment.

CVIII. The assessment so confirmed shall be final and conclusive, unless the same shall be disallowed or varied upon any such appeal or further proceeding as hereafter mentioned, and the assessment shall also be subject to be surcharged in respect of fraud, as provided in this Act.

Such confirmation shall be final and conclusive, except in cases of appeal or fraud.

PART XII.

Appeals from Assessment by Punchayets.

CIX. If any person assessed by a Punchayet shall be dissatisfied with the assessment, such person may, within fifteen days after the proclamation of the said assessment in the part of the District in which such person shall reside at the time of the assessment, or within such further period as the Collector for any special reason may allow, appeal to the Collector of the District.

Persons dissatisfied may appeal within fifteen days.

CX. The appeal shall be made and the proceedings upon any such appeal shall be conducted according to the provisions of Part IV. of this Act.

Proceedings upon appeal shall be according to Part IV. of this Act.

CXI. The person so appealing shall make all such returns and declarations, and shall do all such acts and things as are required by Part IV. of this Act, and shall be subject to the several provisions in the said Part IV. of this Act.

Appellant required to do certain acts.

CXII. If, upon the hearing of such appeal, the Collector is satisfied that the assessment upon the person appealing is erroneous and excessive, the Collector shall reduce the assessment on such person, and shall settle in what sum the person so appealing ought to be assessed, and make an assessment on him accordingly. Such assessment shall be final and conclusive, subject only to such surcharge in the case of fraud as provided in this Act.

Collector, if satisfied upon such appeal, shall reduce the assessment.

CXIII. If, upon the hearing of such appeal, the person so appealing shall not satisfy the Collector that the assessment upon him is erroneous and excessive, his appeal shall be dismissed, and if it shall appear to the Collector that the appeal is frivolous or vexatious, the party appealing shall be liable to be

Collector, if dissatisfied, shall dismiss the appeal, and may charge double assessment.

charged by the Collector to the said Duty in a sum not exceeding double the amount at which he was assessed under the said assessment.

Members of Punchayets may attend before the Collector and support their assessment when appealed from.

CXIV. In all cases of appeal, it shall be lawful for the members of the Punchayet from whose assessment the appeal shall have been preferred, or any of them, to attend before the Collector and to support their assessment, and the Collector may summon the members of the Punchayet to attend for such purpose.

Local Government to make Regulations for the execution of this Act

CXV. It shall be lawful for the local Government, from time to time, to make Rules not inconsistent with the provisions of this Act for carrying out the provisions of this Act, for assessment by Punchayet, and disposing of appeals from such assessment.

PART XIII.

Exemptions.

Exemption of persons whose income is less than two hundred Rupees yearly.

CXVI. No person shall be chargeable to any Duty under this Act, who shall prove to the satisfaction of the Collector or Commissioners, in the manner hereinafter mentioned, that the aggregate amount of his annual income or profits, from whatever source derived, estimated under the Rules of this Act, is less than two hundred Rupees. Any person so satisfying the Collector or Commissioners as aforesaid shall be entitled to be repaid the amount of any deduction or payment on account thereof, in the manner hereinafter directed, except so much of such Duty as the person claiming such exemption shall be entitled to charge against any other person, or to retain from any payment to which such claimant may be liable.

Exemption of persons from the Duty of 1 per cent. and from excess above 2 per cent. whose income is less than five hundred Rupees yearly.

CXVII. No person who shall prove to the satisfaction of the Collector or Commissioners that the aggregate amount of his profits or income, from whatever source derived, estimated as aforesaid, though amounting to two hundred Rupees a year, is less than five hundred Rupees, shall be charged with more than two Rupees of every hundred Rupees of the annual value of his profit or income, or shall be charged with any part of the Duty of one Rupee per centum chargeable under

Section III. of this Act for roads, canals, and other reproductive public works. Any person so satisfying the Collector or Commissioners, as aforesaid, shall be entitled to be repaid the amount of any deduction or payment on account of the said Duty of one per cent. or of the excess of the said Duty of three per cent., from which he shall be so exempted as aforesaid, except as in the last preceding Section of this Act is excepted.

Claims for exemption in the preceding Sections mentioned, and proceedings thereon, shall be determined before Collector or Commissioners.

CXVIII. The exemption allowed by the foregoing Sections shall be claimed and proved, and all proceedings thereupon shall be had, before the Collector or Commissioners of the place where the claimant is charged, whether such claimant shall be personally charged in such place or not.

Persons entitled to such exemptions shall deliver to the Assessor a statement, stating their sources of income.

CXIX. Every person assessed under this Act claiming to be entitled to such exemption as aforesaid, shall, within the time to be limited as hereinbefore directed for delivering in the returns and declarations required by this Act, or within such further time as the Collector or Commissioners respectively shall for special cause assigned allow, deliver or cause to be delivered to the Assessor of the place where such claimant shall reside, a notice of his claim to such exemption, together with a declaration signed by such claimant and in such form as shall be prescribed as aforesaid, declaring and setting forth therein all the particular sources from whence the income of such claimant shall arise, and the particular amount arising from each source, and also every sum of annual interest or other annual payment reserved or charged thereon, whereby the income shall or may be diminished, and also every sum which such claimant may have charged, or may be entitled to charge against any other person, on account of the Duties made payable by this Act, or which he may have deducted or may be entitled to deduct under the authority of this Act, from any payment to which he may be liable.

Assessor to transmit such statement to Collector or Commissioners.

CXX. The Assessor shall transmit such return and declaration to the Collector or Commissioners.

CXXI. If it shall appear to the said Collector or Commis-

Property of persons claiming such exemption in any other District, shall be exempted on the certificate of the Collector, or by the Chief Revenue Authority of the District.

sioners that any property or profits of such person is or are assessed, or liable to be assessed in any other place, the Collector or Commissioners shall certify to the Chief Revenue Authority of the Presidency, Lieutenant-Governorship, or Province, in such form as shall be prescribed as aforesaid, the allowance of exemption in respect of such property or profits; and the Chief Revenue Authority shall direct the assessment made upon any profits or income of such claimant, in any other place, to be discharged either wholly or to the extent of such excess, as aforesaid, as the case may require, and the same shall be discharged accordingly.

On proof that persons entitled to exemption have been charged with Duties by the deduction from any annuity, dividend, and rent, Commissioners to grant certificate thereof, which shall authorize the Collector to re-pay the amount of such Duties.

CXXII. If it shall be proved to the satisfaction of the Collector or Commissioners, that any person, whose claim to exemption has been allowed in manner aforesaid, has been charged to and has paid any Duty under this Act by way of deduction from any rent, annuity, interest, or other annual payment to which he may be entitled, and from which a deduction is authorized to be made by this Act; or that such person has been assessed and has paid such Duty in respect of any interest, annuity, dividend, pension, or salary payable to him out of the public revenue, in such case it shall be lawful for the said Collector or Commissioners respectively, to certify what shall have been so proved, and thereupon the same shall be repaid in such manner and under such rules as the local Government shall from time to time prescribe.

In case of incomes of offices, pensions, and salaries, the claim shall be made before the Assessors.

CXXIII. When the whole profit or income of the claimant shall arise from an office or employment of profit, or from an annuity, pension, or salary, the assessment on which is made by an Ex-Officio or Special Assessor, the claim to such exemption shall be made to and may be allowed by such Ex-Officio or Special Assessor.

Persons out of British India may claim by affidavit.

CXXIV. If the claimant shall be out of India, an affidavit stating the several matters required by this Act, taken before any person having authority to administer oaths and affirmations in the

place where such claimant shall reside, may be received in relation to the assessment on which such claim is founded.

Claims may be made by Agents or Trustees on account of others.

CXXV. A claim for exemption may be made by a guardian, trustee, agent or factor, on account of others, in any case where satisfactory proof shall be given that the party claiming such exemption is unable to attend in person, or such claim may be made by the several persons acting in any of the characters hereinbefore described in such manner as they may act for others for the purpose of being assessed on their account in the first instance, as hereinbefore directed.

All Government property exempted.

CXXVI. No person shall be chargeable to the Duties under this Act in respect of the profits derived by Government from any property, real or personal, vested in, or held in trust for the Government, or the Secretary of State for India in Council, for public purposes; and all such profits shall be wholly exempted from the said Duties.

Officers and Soldiers in any Police Force, whose pay and allowances are less than those of a Captain of Infantry, exempted.

CXXVII. Officers, Non-Commissioned Officers and Privates of Her Majesty's Forces, or of Her Majesty's Indian Military Forces, or of any Military Police or other Police Force, whose pay and allowances shall be less than the pay and allowances of a Captain of Infantry in Her Majesty's Forces in India, shall be wholly exempted from the said Duties in respect of any pay or allowance which they may receive from Her Majesty, or from the Government, or from any public revenue.

Naval and Marine Officers not above the rank of Lieutenant, exempted.

CXXVIII. Officers of Her Majesty's Navy or of the Indian Naval forces, or in the employment of Government in the Marine Department not above the rank of Lieutenant, and all Warrant and Petty Officers and Seamen shall in like manner be exempted from the said Duties.

Public Officers exempted in respect of travelling and other allowances.

CXXIX. Public Officers, Civil, Military, or Naval shall be wholly exempted from the said Duties in respect of allowance received by any such Officer for travelling expenses, contract allowances, tent or horse allowance, or any allowance in lieu of house-rent, or to meet any disbursement for the public service.

CXXX. Ryots and persons in the occupation of lands for agricultural purposes and actually engaged in the cultivation and depasturing of the same, shall not be chargeable with the said Duty in respect only of the occupation of such lands, unless the rent paid by such ryots or persons in respect of such occupation, whether under direct engagement for the same with Government or not, shall amount at least to six hundred Rupees per annum or unless the full annual value of such land at a rack rent shall exceed that amount.

Ryots &c paying less than 600 Rupees yearly, exempted.

CXXXI. Persons occupying houses for the purpose of habitation only, and holding the same at a rack rent, shall not be chargeable with the said Duties in respect of their occupation only of such houses.

Persons occupying houses at a rack rent, exempted.

CXXXII. The Assessor in his assessment of houses actually occupied shall deduct such amount for repairs as the owners thereof shall prove to his satisfaction to have been expended, not exceeding a sum equal to the rent of such houses for six months in every three years.

Deduction on account of repairs of house.

CXXXIII. It shall be lawful for the local Government, subject to the approval of the Governor-General of India in Council, to order that any property, movable or immovable, solely employed for or dedicated to religious or charitable public purposes, shall be wholly or partially exempted from the Duties chargeable under this Act, and to make such orders as may be necessary for securing and carrying into effect such exemption.

Power to exempt property used for charitable purposes or public religious purposes.

CXXXIV. Any person who shall have made insurance on his life, or on the life of his wife, or shall have contracted for any deferred annuity on his own wife, or on the life of his wife, in or with any Insurance Company duly registered under any Act of the Imperial Parliament or under any Act of the Governor-General of India in Council, or authorized by law carry on business without registration, and any person who shall be liable to the payment of any

Persons who have made insurance or contracted for a deferred annuity on the lives of themselves or wives, to be allowed an abatement of Duties in respect of the annual premiums or sums paid.

periodical sum or to have any sum periodically deducted from his salary, in order to secure a deferred annuity to himself or to his widow, or a provision to his children after his death, shall be entitled to deduct the amount so paid by him for such insurance or contract or deducted from his salary as aforesaid, from any profits or income in respect of which he shall be liable to be assessed under any of the Schedules of this Act, excepting Schedule 3; or to have any assessment which may be made upon him under any of the said Schedules except Schedule 3, reduced or abated by the deduction of the amount of the said annual premium or sum from the amount of the profits or income on which such assesment has been made.

Re payment of such Duties if already paid.

CXXXV. If such person shall be assessed to Duties under any of the Schedules contained in this Act and shall have paid such assessment, or shall have paid or been charged with any of the said Duties by deduction or otherwise, such person, on claim made to the Collector or Commissioners and on production to them of the receipt for such annual payment or sums, and on proof of the fact to the satisfaction of the said Collector or Commissioners, shall be entitled to have repaid to him such proportion of the said Duties paid as the amount of the said premium or sum bears to the whole amount of his profits on which he shall be chargeable under all or any of the Schedules of this Act.

No abatement or repayment in respect of premium, &c., beyond one-sixth of total profits or income.

CXXXVI. No such abatement, allowance, or repayment as aforesaid, shall be made in respect of any such premium or sum beyond one-sixth part of the whole amount of the profits and income of such person so chargeable as aforesaid, nor shall any such deduction or abatement entitle any such person to claim exemption from Duties, on the ground of his annual profits or income being thereby reduced below two hundred Rupees, or five hundred Rupees, as the case may be.

PART XIV.

Abatement and Relief from double Assessments.

Collector or Commissioners to grant relief from double assessment.

CXXXVII. Whenever any person shall have been assessed to any of the Duties imposed by this Act, whether charged on him on his own account, or in any of the characters hereinbefore de-

scribed on the behalf of any other person, and shall, by any error or mistake, be again assessed for the same cause and on the same account and for the same year, it shall be lawful for him to apply to the Collector or Commissioners acting for the place in which he shall have been so assessed, for the purpose of being relieved from such double assessment, and the Collector or Commissioners, on proof thereof to their satisfaction, shall cause such assessment or such part thereof as shall be a double charge as aforesaid to be remitted.

Governor-General in Council to prescribe rules for re-payment of double assessment.

CXXXVIII. Whenever any double assessment shall have been so remitted, it shall be lawful for the Collector or Commissioners to direct the re-payment thereof in such manner and under such rules as the Governor-General of India in Council shall prescribe.

Abatement on account of diminution of income, how to be allowed.

CXXXIX. If within or at the end of the year for which any assessment shall be made under this Act, any person charged to the Duties contained in Schedule 2 shall prove to the satisfaction of the Collector or Commissioners that the interest or profits during the year for which the assessment was made, fell short of the sum on which the assessment (not being a Composition) was made, it shall be lawful for the Collector or Commissioners to cause the assessment for such current year to be amended in respect of such source of profit as the case shall require; and in case the Duties charged on such assessment shall have been paid, to order the repayment of the same in such manner and under such rules as the Governor-General of India in Council shall prescribe.

Abatement to be allowed when persons shall cease to exercise any trade, or shall die before the end of the year.

CXL. If any person charged to the Duties under Schedule 2 shall cease to exercise the profession or employment, or to carry on the trade in respect to which the assessment was made, or shall die, or become bankrupt, or insolvent, before the end of such year, or shall from any other cause be deprived of, or lose the profits on which the assessment was made, such person or his representative may make application to the Collector or Commissoners, within any period not exceeding three calendar months after the end of such year, and on proof thereof to their satisfaction, the Collector or Commissioners shall cause the assessment to be amended as the case may require,

and repayment of any Duties ordered to be remitted shall be made in such manner and under such rules as the Governor-General of India in Council may prescribe.

Procedure in cases of succession to the trade of a person charged.

CXLI. When any person shall have succeeded to the trade of the person charged, no such amendment shall be made, unless it shall be proved to the satisfaction of the Collector or Commissioners that the profits of such trade have fallen short from some cause, since such change took place, and by reason thereof, but such person shall be liable to the payment of the full Duty without any new assessment.

PART XV.

Mode of Payment and Collection of the Duties.

Duties to be payable by four quarterly instalments.

CXLII. The Duties assessed under this Act, except where the same shall be detained and stopped, as the pensions, salaries, allowances, interest, and annuities chargeable therewith become due at the respective offices, shall be payable in each year by instalments at the times following, that is to say, on or before the 1st day of November for the first quarterly instalment, on or before the 1st day of February for the second quarterly instalment, on or before the 1st day of May for the third quarterly instalment, and on or before the 1st day of August for the last quarterly instalment in each year. Provided that it shall be lawful for the local Government to prescribe such other periodical instalments and such other periods of payment as it shall think proper; and the orders of such local Government shall be notified by proclamation in the Districts to which such orders relate, in the manner usual in such Districts.

Proviso.

Collector or Commissioners to deliver duplicate assessment to collecting officer, which shall be sufficient authority to him to levy.

CXLIII. The Collector or Commissioners authorized to make assessments in respect of the assessments made by them shall, as soon as possible after the assessments shall have been determined, issue out and deliver to the respective collecting officers, duplicates of the assessments of the Duties charged in the respective Schedules, distinguishing the amounts charged under each of the said Schedules.

CXLIV. Such duplicates shall, except in the cases provided

Form of duplicates.

for in Part XVI. of this Act, contain the names and descriptions of the persons assessed and charged.

Effect of duplicates.

CXLV. Such duplicates shall be a sufficient warrant and authority to the collecting officers for the levying and collecting of the said Duties specified in the duplicates, as the same shall become payable by such instalments as aforesaid, and such collecting officers shall proceed forthwith to levy and collect the same.

Payment of Duties at any Treasury or office appointed under this Act.

CXLVI. Whenever any Treasury or office shall be appointed by the local Government for the receipt of money under this Act, the payment of the Duties chargeable under this Act may be made by or on account of the person liable to the same at such Treasury or Office.

On payment, receipt to be given.

CXLVII. Whenever any payment shall be made at such Treasury or Office, or to any collecting Officer, to whom a duplicate of the assessment as aforesaid shall have been delivered by the Collector, of any instalment of Duties assessed under this Act, the Officer receiving the amount shall give a receipt under his hand to the person who shall pay the same, and such receipt shall be a full and complete discharge for the money so paid.

Collector or Commissioners to give general notice of appointment of Treasuries, and of Officers to whom Duties are to be paid.

CXLVIII. The Collector or Commissioners shall cause general notice to be given in their respective jurisdictions, by proclamation in the manner usual therein, of the Treasuries or Offices appointed by the Government for the receipt of the said Duties, and of the officers or persons to whom the said Duties may be paid.

PART XVI.

Mode of payment of Duties under Schedule 2, when parties desire to pay according to Numbers or Letters.

Assessments under Schedule 2 to be entered in books.

CXLIX. The assessments upon profits or income under Schedule 2, made by the Collector or Commissioners, shall be entered in books with the names and descriptions of the persons to be charged therewith, and their respective places of abode set opposite thereto, which entries shall be distinguished by numbers or letters, as the Collector or Commissioners shall think proper.

Certificate of assessment to be delivered to persons.

CL. When the person charged with any Duties under Schedule 2, and whose name and description shall have been entered as aforesaid, shall have declared his intention to pay the Duties at the proper Treasury or Office, or to the proper Officer within the time limited by this Act for payment thereof, if the Collector or Commissioners shall be satisfied with such declaration, they shall deliver to such person, or to any other person attending on his behalf, a certificate under the signature of the Collector, or of two or more of the Commissioners, specifying the amount to be paid by such person for one year upon such assessment.

Certificate to be numbered and lettered.

CLI. Every such certificate shall be numbered or lettered with the same number or letter as the entry in the book to which the certificate shall relate, without naming or otherwise describing the person charged.

Effect of certificate.

CLII. Such certificate shall, on production thereof, be a sufficient authority to the officer in charge of such Treasury or office, or to such collecting officer, to receive from the person producing such certificate the amount therein mentioned in such proportions thereof as by this Act are made payable by instalments, and at the times by this Act appointed for payment thereof.

Acknowledgment of payment according to certificate.

CLIII. On the payment of the sums contained in such certificate, or any proportion thereof, the said officer in charge of such Treasury or office, or the collecting officer, shall give an acknowledgment for the same as paid on account of the certificate of the Collector or Commissioners by the number or letter marked therein as before directed.

Duplicates to be delivered to collecting officers, and when assessments are made under a number or letter, a warrant for receiving the Duties to be delivered.

CLIV. It shall be lawful for the Collector or Commissioners to issue out and deliver to the respective collecting officers duplicates of the assessments made by them, containing the sums assessed on every person to whom a certificate hath been delivered by letter or number, together with the number or letter set opposite thereto in their respective books before mentioned, without naming such persons, and all such sums shall be paid to the collecting officers: and such part

thereof as shall not be so paid to them, may be levied and collected as herein is provided.

Duties on such assessments, where, how, and when payable.

CLV. The Duties payable on such last-mentioned assessments under Schedule 2 shall be paid at the proper Treasury or office, or to the proper officer for receipt, by such instalments as by this Act is directed, on or before the respective days appointed for the payment of the same.

Delivery of acknowledgment to Collector or Commissioners.

CLVI. The acknowledgment hereby required to be given on such payment shall be delivered to the Collector or Commissioners, before the time when the amount is hereby made payable, and the Collector or Commissioners shall grant receipt for the same. Such receipt shall be a sufficient discharge for the money so paid, in satisfaction of so much of the assessment as shall be mentioned in such certificate to be so paid.

Effect of receipts.

On default, Duties may be levied in the ordinary way.

CLVII. If any person shall neglect to pay the Duties at the time and in the manner hereby directed for payment thereof, or having paid the same, shall neglect to deliver the acknowledgment required to be given on such payment as hereinbefore directed, the Collector or Commissioners shall deliver a duplicate in the ordinary form of the assessment on any person who shall have made default in paying or accounting for the payment of the same, with his name and description, to the collecting officer, in order that he may levy the sum in arrear and unpaid, and such sums shall thereupon be levied according to the provisions hereinafter contained.

When parties are not assessed by a number or letter, Commissioners to deliver duplicate to collecting officer for collection.

CLVIII. When the Collector or Commissioners shall not have received a declaration of the intended payment to the Treasury or office of the Duties to be charged under Schedule 2, or shall not be satisfied with such declaration, they shall deliver a duplicate of the assessment to the collecting officer with the name and description of the parties charged therewith as provided in Section CXLIII. of this Act.

CLIX. If after the receipt of any such declaration, the

If after declaration of intention to pay under number or letter, default is made, Collector or Commissioners to deliver duplicate to collecting officer.

Duties shall not be paid, the Collector or Commissioners shall cause the name of the defaulter, and the amount of Duties assessed on him, to be inserted in the duplicate assessment of the collecting officer, and such duplicate shall be of the like force and effect for collecting the sum, and such sum shall be levied as if such name and sum had been inserted therein at the time of issuing such duplicate.

PART XVII.

Recovery of Duties.

In default of payment, collecting officer may proceed to recover arrears by distress or attachment and sale of movable and immovable property.

CLX. Whenever the amount of instalment of the said Duties shall not be paid by any person liable to pay the same on the day appointed for the payment of such instalment, the collecting officer shall proceed for the recovery of such instalment by distress and sale of the movable property, or by the attachment and sale of the immovable property of the person so making default as hereinafter provided.

Seizure and sale of movable property to be made according to following Rules.

CLXI. In the seizure and sale of movable property for arrears of assessment, the following rules shall be observed :—

Collector or Commissioners to furnish person distraining with a demand in writing.

1st.—The Collector or Commissioners shall employ a person, hereinafter called the Distraining Officer, to distrain the property, and shall furnish to such officer a demand in writing, signed by the Collector or Commissioners, or by some officer empowered by him in that behalf, specifying the amount of the arrear for which the distress shall be issued, and the date on which the arrear fell due.

Defaulter to be served with a copy.

2nd.— The Distraining Officer shall produce the writing as authority for making the distress, and on the day on which the property shall be distrained, shall deliver a copy of such writing to the defaulter, endorsing thereon a list or inventory of the property distrained, and the name of the place where the property may be lodged or kept.

Writing to state that the distrained property will be sold.

3rd.—The writing shall further set forth that the distrained property will be brought to public sale within three days, unless the amount and the expense of the distress be previously discharged.

4th.—When a defaulter shall be absent, a copy of the writing,

Mode of service when defaulter is absent.

with the endorsement, shall forthwith be fixed or left at his usual place of residence.

Consequence of defaulter neglecting to pay after notice, or absenting himself.

CLXII. When a defaulter, on receiving notice, shall neglect to pay the amount due, or when a defaulter shall have absconded or be otherwise not forthcoming, so that the notice cannot be served upon him, the Distraining Officer shall transmit an inventory of the property distrained to the Collector or Commissioners,

On tender of arrear and expenses prior to the day of sale, distress to be withdrawn.

CLXIII. If a defaulter, whose property has been distrained, shall before the day of sale tender payment of the arrear demanded together with payment of the necessary expenses attending the distress, the Distraining Officer shall receive the amount of the arrear and expenses, and shall forthwith release the property.

Distress to be proportionate to the arrear.

CLXIV. The distress levied shall not be excessive, and the value of the property distrained shall be as nearly as possible proportionate to the amount of the arrear.

Time for Distress.

CLXV. The distress shall be made after sunrise and before sunset, and not at any other time.

What places distrainer may force open.

CLXVI. The distraining Officer shall have power to force open any stable, cow-house, golah, granary, godown, out-house, or other building, as also to enter any dwelling-house, the outer door of which may be open, (excepting the apartments in such dwelling-house appropriated for the zenanah or residence of women, which, by the usage of the country, are considered private.) and to break open the door of any room in such dwelling-house for the purpose of attaching property belonging to a defaulter and lodged therein.

Powers of distrainer to force open doors in the presence of a Police Officer.

CLXVII. Where a Distraining Officer shall have reason to suppose that the property of a defaulter is lodged within a dwelling-house, the outer door of which may be shut, or within any apartments appropriated to women, which by the usage of the country are considered private, such officer shall represent the same to the head officer of the Police within whose jurisdiction the house may be situated, and on such representation the head

officer of the Police shall send a Police Officer to the spot, in the presence of whom the Distraining Officer may force open the outer door of such dwelling-house.

Mode of distraining within zenanahs.

CLXVIII. The Distraining Officer may also, in the presence of the Police Officer, after due notice given for the removal of women within a zenanah, and after furnishing means for their removal in a suitable manner, if they be women of rank, who, according to the custom of the country, cannot appear in public, enter the zenanah apartments for the purpose of distraining the defaulter's property therein; but such property, if found, shall be immediately removed from such apartments, after which they shall be left free to the former occupants.

Real property may be attached, but previous sanction of the Chief Revenue Authority of the Division necessary for the sale of immovable property.

CLXIX. On the occurrence of an arrear, or at any subsequent period, the Collector or Commissioners shall have authority to attach at their discretion the whole or such portion of a defaulter's immovable property as they may deem sufficient to answer the amount in arrear; but the previous sanction of the Chief Revenue Authority of the Division shall, in all cases, be necessary for the sale of immovable property.

When Collector may sell the immovable property in addition to the movable property of the defaulter.

CLXX. When a defaulter shall not have any movable property, of which distraint can be made, or when, after the movable property of such defaulter shall have been distrained and sold, the arrear due, with all expenses of the distress and sale, is not liquidated by the proceeds of such sale, the Collector or Commissioners may, with such sanction as aforesaid, proceed to sell the immovable property of the defaulter.

Proclamation to be made of the time of sale and of the property to be sold.

CLXXI. The person or officer employed by the Collector or Commissioners to sell movable property distrained, or immovable property attached under this Act, shall cause to be affixed to the outer door of the defaulter's house a list of the property to be sold, with a notice specifying the place where, and the day and hour at which the property will be sold, and shall cause proclamation of the intended sale to be made in the manner usual in the District in such place or places as the Collector or Commissioners may consider necessary to give due publicity to the sale.

No sale of such property to take place till after fifteen days.

CLXXII. No sale of immovable property shall take place until after the expiration of a period of fifteen days from the date on which the notice may be so affixed.

Sale how to be conducted.

CLXXIII. At the appointed time, the property, movable or immovable, shall be put up for sale under the order of the Collector or Commissioners in one or more lots, as the Collector or Commissioners or the Officer employed by them in that behalf shall direct, and shall be sold to the highest bidder.

Property to be paid for before removal.

CLXXIV. The property shall be paid for in ready money at the time of sale or as soon after as the Officer holding the sale shall appoint, and the purchaser shall not be permitted to carry away any part of the property until he has paid for the same. When the purchaser shall make default in the payment of the purchase money, the property shall be re-sold and the defaulting purchaser shall make good to the Distraining Officer any loss arising on such re-sale as well as the expenses attending the same.

Re-sale.

Payment of excess of sale proceeds to defaulter.

CLXXV. When the property shall be sold for more than the amount of the arrear, the excess, after deducting expenses of process, shall be paid to the defaulter.

If no distress can be found on land or house chargeable to Duties at time of payment.

CLXXVI. In case any land or house chargeable to Duties under this Act shall be unoccupied and no distress can be found on the same at the time such Duty shall be payable, it shall be lawful for the Collector or Commissioners or for any other Officer duly authorized in that behalf, at any time after, to enter the said land or house when there shall be any distress thereupon to be found, and the said distress to seize and sell under the like powers as he might have distrained on the same land or house at the time the Duties became due if in the occupation of the same person.

Arrears to be levied by distress in the District where the party resides.

CLXXVII. If any person assessed to the Duties charged under this Act shall remove out of the District in which he shall have been assessed, without first paying or discharging all the Duties charged upon him which shall be due, and without leaving in such District sufficient property whence the whole of the said

Duties may be raised and levied; or if any person shall reside in any other District than that in which the assessment or charge shall be made on him in pursuance of this Act, and the same shall be in arrear and unsatisfied in the whole or in part, it shall be lawful for the Collector or Commissioners to certify to the Collector or Commissioners of the District within which such person shall reside, the amount of the assessment or charge made upon such person, and remaining in arrear, and unpaid as aforesaid.

Mode of levying.

CLXXVIII. Such last-mentioned Collector or Commissioners shall thereupon cause the whole of the Duties so remaining in arrear and unpaid as aforesaid to be levied, together with the costs and charges attending, in the same manner as if the said person had been assessed in the District of the said last-mentioned Collector or Commissioners.

Fees upon distraints according to a scale to be prescribed by local Government.

CLXXIX. The fees payable upon distraints or attachments under this Act shall be according to a scale which shall be prescribed by the local Government.

Instead of proceeding by distress, Collector or Commissioners may issue warrant.

CLXXX. Instead of proceeding by distress and sale, or by attachment and sale, or in case of failure to realise thereby the whole or any part of the Duties assessed and payable under this Act, the Collector or Commissioners may, if they think fit, issue a warrant for the arrest of such defaulter. Upon such warrant the officer charged with the execution thereof shall bring the defaulter with all convenient speed before such Collector or Commissioners. If the defaulter shall not then deposit in the hands of the Collector or Commissioners the full amount of the arrears of Duties under this Act due and payable at the time of issuing such warrant, or make such arrangement for the payment of the same as shall be satisfactory to the Collector or Commissioners, or satisfy the Collector or Commissioners that he has no present means of paying the arrears and that he has reasonable excuse for not having paid, such Collector or Commissioners may send him to the Civil Jail, there to remain for such time as shall be directed by a warrant addressed to the keeper of the Jail, unless he shall in the meantime pay the full amount of the said arrears. Provided that the time for which a debtor may be confined in Jail under such warrant

shall not exceed three calendar months when the amount of such arrears shall not exceed fifty Rupees, or six calendar months when such amount does not exceed five hundred Rupees, or two years in any other case. Provided also that such imprisonment shall not extinguish the liability to pay such arrears, but all property then belonging to the defaulter or afterwards acquired, shall be liable to be distrained or attached under the provisions of this Act, in satisfaction of such arrears, or of so much thereof as shall remain unpaid as if no imprisonment had been ordered.

Procedure in Presidency Towns as to claims to movable property distrained.

CLXXXI. If any claim shall be made in any Presidency Town to or in respect of any movable property distrained under this Act, or in respect of the proceeds thereof, by any person not being the party chargeable with the Duties in respect of which such distress or attachment is made, such claim shall be certified by the Commissioners of such Presidency Town to the Small Cause Court, and thereupon such proceedings shall be taken for deciding the same as if the property had been taken in execution under process of such Court and such property had then been claimed by some person not being the party against whom the process issued.

Procedure in Straits Settlement.

CLXXXII. If in any Station of the Straits Settlement a like claim shall be made in respect of any such movable property distrained as aforesaid, such claim shall be certified by the Commissioners of such Station to the Court of Judicature thereof, and such claim shall thereupon be heard and determined in a summary way by such Court or by any Division of such Court at their General and Quarter Sessions or otherwise.

Procedure in other places.

CLXXXIII. If in any district or place other than a Presidency Town or a Station in the Straits Settlement such claim as aforesaid shall be made to such movable property distrained as aforesaid, such claim shall be heard and determined in a summary way by the Collector.

Procedure as to claims to immovable property.

CLXXXIV. If any claim shall be made to or in respect of any immovable property attached under the provisions of this Act, the claimant shall deposit in the hands of the Collector or Commissioners the amount of the Duties in respect of which the

attachment was issued, or give security to the Collector or Commissioners for the payment of the same in the event of his not establishing his right in a Civil suit. The sale shall be stayed pending such suit. Such suit shall be commenced within one year from the date of the attachment, and unless it be brought within such period the suit shall not be entertained. In the event of the claimant failing to establish his claim, if any deposit shall have been made, it shall be forfeited in satisfaction of the Duties, and if security shall have been given, the amount shall be levied in the manner provided for arrears of Duties under this Act.

Government claim shall have priority over all private claims.

CLXXXV. The claim of the Government for all sums payable for the said Duties shall have priority over all private claims, arising after the said Duties accrued due, upon any immovable property attached, or upon any movable property distrained upon under this Act. Provided that if the property attached be itself the subject of the assessment in respect of which the attachment shall have issued, the claim of the Government for the arrears due on the said assessment shall have priority over all private claims

Goods of defaulters are not to be removed under any execution or assignment, until all Duties are paid.

CLXXXVI. No goods or chattels shall be liable to be taken by virtue of any execution or other process, warrant, or authority, or by virtue of any assignment, or on any pretence whatever, unless the person at whose suit the execution or seizure shall be sued out or made, or to whom such assignment shall be made, shall, before the sale or removal of such goods and chattels, pay or cause to be paid to the proper officer all arrears of the said Duties which shall be due by the judgment-debtor or assignors at the time of seizing such goods or chattels, or which shall be payable for the year in which such seizure shall be made, provided that the said Duties shall not be claimed under this Section for more than one year.

Parents and guardians liable for infants, and representative for person dying.

CLXXXVII. When any person chargeable with the Duties hereby made payable as aforesaid, shall be a minor, or when any person so chargeable shall die, in every such case the parent or guardian of such infant, upon default of payment by him, or the

representative of the person so dying, shall be liable to the amount of the assets received, for the payments which the said infant ought to have made, or the person so dying was chargeable with, and if such parent or guardian, or such representative, shall neglect or refuse to pay as aforesaid, it shall be lawful to proceed against them in like manner as against any other person making default of payment of the said Duties; and the parent or guardian making payments as aforesaid, shall be allowed every sum paid for such infant in his accounts, and all representatives shall be allowed to deduct all such payments out of the assets of the person so dying.

Priority of Government claims.

CLXXXVIII. The claim of the Government for all sums payable for the said Duties shall have priority over all private claims in administering the assets of any deceased person by his representative, or of any bankrupt or insolvent by his assignee, provided that the said Duties shall not be claimed under this Section for more than one year.

Where the Act shall not come into operation before the time for payment of any instalments shall fall due, Commissioners to adjust times of payment.

CLXXXIX. If this Act shall not come into operation in any district previous to the time appointed for the payment of the first, or any subsequent instalment of the said Duties, or within the year of assessment, it shall be lawful for the Collector or Commissioners executing this Act, who shall have made or allowed any assessment after the period appointed for any such payment, (which they are hereby declared to be competent to do,) from time to time, when the same shall be necessary, to settle and adjust at what time any instalment of which the time for payment shall then have elapsed, shall be paid, in such manner as to them shall appear just and reasonable.

PART XVIII.

Application of the Duties.

All the Duties to be paid in the first instance into the Government Treasury to an account to be headed Income Tax Account.

CXC. All monies arising from the Duties hereby imposed shall be paid into such of the Treasuries of Her Majesty's Government in India as the local Government shall from time to time direct, to an account to be headed Income Tax Account.

A separate account to be kept at the Treasury of the 1 per-cent. Duty.

CXCI. A separate account shall be kept at the said Treasuries of all sums paid in on account of the said one per-cent. Duty.

A separate account to be kept of the 1 per cent. Duty paid in Presidency Towns and Straits Settlement, &c.

CXCII. A separate account shall also be kept of such sums paid in on account of the said one per-cent. Duty as shall have been assessed upon persons residing in, or carrying on business in or upon any house or land in any Presidency Town or any Station in the Straits Settlement or in any district.

Special appropriation of the 1 per-cent. Duty.

CXCIII. A separate account shall be kept of the Duty paid in respect to the said one per-cent. Duty which shall accrue from the dividends or interest paid upon the Government debt and from the salaries of public officers, and from the profits of any Railway or other public Company whose profits shall be derived from different parts of India or of which any part of profits is derived from a place other than that at which its head Office is situate. The amount comprised in such account of the one per cent. Duty shall be appropriated to the different Governments in India, to be applied according to their discretion for the execution of roads, canals, or other reproductive public works which have been duly sanctioned. Such appropriation shall be made to each local Government in the proportion in which each Presidency or Lieutenant-Governorship or Province under a Chief Commissioner shall contribute to the whole amount of the Duty raised under this Act.

Appropriation of residue of the 1 per-cent. Duty.

CXCIV. The whole of the residue of the sums derived from the said one per cent. Duty shall be appropriated to each Presidency, Lieutenant-Governorship, and Province, to the extent contributed by such Presidency, Lieutenant-Governorship, and Province, and shall be expended by the local Government and Chief Commissioners thereof in roads, canals, or other reproductive public works duly sanctioned as aforesaid, in the various Districts under them, as nearly as may be in proportion to the respective contributions of such Districts thereto.

PART XIX.

Penalties.

CXCV. If any officer employed to receive or collect any

Penalty on collecting officers for misconduct in office.

Duties under this Act;—1*stly*—Shall fraudulently collect or attempt to collect any money on account of Duties under this Act from any person not charged or chargeable therewith; or

2*ndly*.—Shall fraudulently receive or collect, or attempt to receive or collect, from any person more money than is actually charged against such person upon his assessment; or

3*rdly*.—Shall receive or collect any money whatsoever under color of this Act, and not pay over and account for the whole of such money; or

4*thly*.—If any such officer employed or authorized to serve any notice, or to make any distress, attachment, or sale under this Act, shall extort or obtain, or attempt to extort or obtain, any sum of money or valuable thing other than such money as he shall have been authorized to receive or collect under this Act, from any person whatever, under color of his employment or authority, or as a bribe for forbearing to exercise any employment or authority under this Act, such officer shall be deemed guilty of a misdemeanor, and shall be liable to imprisonment with or without hard labor for a period not exceeding six months, and shall, for every such offence, forfeit a sum not exceeding one thousand Rupees, and in default, and until such payment be made, shall be liable to further imprisonment with or without hard labor for a period not exceeding six months.

Penalty on persons pretending to be employed to serve notices or collect monies.

CXCVI. If any person, not being employed or authorized to serve any notice required to be given under this Act, or to receive or collect any money under this Act, shall falsely pretend that he is employed or authorized to serve any notice, or to receive or collect any money under this Act, and shall, by such false pretence, obtain or attempt to obtain any noney or valuable thing whatsoever from any person whatsoever, the person so offending shall be deemed guilty of a misdemeanor, and shall be liable to the punishment and penalties in the last preceding Section mentioned.

Punishment for unlawful entry.

CXCVII. Any person employed or pretending to be employed to make any distress under this Act, who shall knowingly enter the apartments of any Hindoo or Mahomedan woman, which, by the usage of the coun-

try, are deemed private, or shall force open the outer door of a dwelling house contrary to the provisions of the 17th Part of this Act, shall be liable to be imprisoned with or without hard labor for any period not exceeding three months.

Penalty for forcibly or clandestinely taking away distrained property.

CXCVIII. If any person shall take away any movable property duly distrained under this Act, knowing it to be distrained while subject to such distress, such person shall, on conviction, be liable to be imprisoned for a period not exceeding three months, or until he sooner restores the property, or makes good the value of it to the Distraining Officer, and shall also be liable to a fine not exceeding the value of such property.

Penalty for forgery.

CXCIX. If any person shall forge, counterfeit, or alter, or cause or procure to be forged, counterfeited, or altered, or shall knowingly or wilfully aid or assist in forging, counterfeiting, or altering any certificate of the Collector or the Commissioners or of any Ex-Officio or Special Assessor, or of any Deputy Collector acting in the execution of this Act, or any certificate or any acknowledgment, or any receipt which any Officer is, by this Act, authorized to give on the receipt of any money payable under this Act, or shall utter any such forged, counterfeited, or altered certificate or acknowledgment or receipt as aforesaid, with intent to defraud Her Majesty, or the Secretary of State in Council, or the Government, or any person whomsoever, every person so offending and being lawfully convicted thereof, shall be adjudged guilty of felony, and shall be liable, if a European or American, to be sentenced to penal servitude for any period not exceeding ten years, or to imprisonment with or without hard labor for any term not exceeding two years, and, if not a European or American, to be sentenced to transportation for any period not exceeding fourteen years, or to imprisonment with or without hard labor for any term not exceeding seven years.

Penalty for assaulting Collector, &c.

CC. Every person who, with the intention of inducing any Collector, or any other Officer employed to carry out the provisions of this Act, to refrain from exercising any of the lawful powers vested in such Collector or other Officer under the authority of this Act, or with the intention of inducing any person liable to pay any Duties under this Act, to refrain from making any return or declaration,

or doing any act, or making any payment required by this Act, shall assault, or make a show of assaulting, or shall wrongfully restrain or attempt wrongfully to restrain, or shall overawe by means of an unlawful assembly, or attempt so to overawe any such Collector or other Officer, or any such other person as aforesaid, and all persons who shall combine by the closing of shops or otherwise to induce, or who shall do any act with intent to induce any other person or persons to break the public peace, or otherwise to obstruct the operation of this Act, shall be liable to a sentence of imprisonment with or without hard labor, for a period not exceeding twelve months, or to a fine not exceeding five hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding twelve months.

Penalty for intimidating with the intention of preventing persons from making returns, declarations, or payments, &c.

CCI. If any person shall, by violence, threats, or otherwise, intimidate or attempt to intimidate any other person liable to pay any Duties under this Act, with the intention of preventing such person from making any return or declaration, or doing any act, or making any payment required by this Act, he shall be liable to a sentence of imprisonment, with or without hard labor for a period not exceeding six months, or to a fine not exceeding two hundred Rupees, or to both, such fine being commutable, if not paid, to a further period of imprisonment not exceeding six months.

False deposition.

CCII. If any person, being legally bound by an oath or affirmation to state the truth to any public servant, or to any other person authorized to administer an oath or affirmation in any matter relating to this Act, states to such public servant or other person as aforesaid, touching that subject, as true, that which he knows to be false, or does not believe to be true, he shall be punished with imprisonment with or without hard labor for a term which may extend to three years, and shall also be liable to a fine not exceeding five thousand Rupees.

Charge to be preferred where perjury committed.

CCIII. Any charge to be preferred under the last preceding Section for any of the offences therein mentioned in regard to any affidavit, deposition, or affirmation, shall and may be tried and determined in the place where such affidavit, deposition, or affirmation shall

be exhibited to the Collector or Commissioners in pursuance of this Act; but if such offence shall have been committed by any European British subject, the charge shall be tried and determined by one of Her Majesty's Supreme Courts of Judicature.

Penalty for making false returns of profits or of the value of land.

CCIV. If any person shall knowingly and wilfully make or deliver any false or fraudulent account, statement, or declaration in any return which he is required to make under the provisions of this Act, such person shall for every such offence, if not otherwise provided for in this Act, be liable to forfeit treble the amount of Duties to which he is justly chargeable, in addition to a further sum not exceeding five hundred Rupees.

Penalty for accessories before the fact.

CCV. Every person who shall knowingly and wilfully aid, abet, or assist, or incite or induce any other person to make or deliver any such false or fraudulent account, statement, or declaration as aforesaid, shall, for every such offence, forfeit the sum of five hundred Rupees.

False claim to abatement under Schedule 1.

CCVI. If any person shall knowingly make any false claim for any abatement under the first Schedule of this Act, or shall be guilty of any fraud or misrepresentation in making such claim, or in obtaining or endeavoring to obtain any such abatement, or knowingly shall untruly declare the amount or value of any loss under the rules relating to Schedule 1, or the amount or value of any abatement made or agreed to be made in the rent of the land or house in his occupation on account of such loss, with intent fraudulently to obtain any such abatement, he shall forfeit treble the amount of Duties justly chargeable on him in respect of the said land or house, in addition to a further sum not exceeding five hundred Rupees; and if the occupier of any such land or house, or any other person whatever, shall aid, abet, or assist any person charged to the said Duties in making such false or fraudulent claim, or shall fraudulently or untruly declare the amount or value of any abatement made or agreed to be made in the rent of the said land or house, or the amount of such loss, with intent fraudulently to obtain for the person so charged any abatement as aforesaid, every such person shall forfeit a sum not exceeding five hundred Rupees.

CCVII. If any person shall knowingly make any false claim to any abatement under any Schedule of this Act, or to any exemption or deduction under the 13th or 14th Parts of this Act, or shall knowingly be guilty of any fraud or contrivance in making any claim under any of the said Schedules, or under the said 13th or 14th Parts of this Act, or in obtaining any abatement, or any exemption, or deduction, or any certificate as aforesaid, under any of the said Schedules, or the said 13th or 14th Parts, or shall fraudulently conceal or untruly declare any income or amount of income, or any sum which he may have charged, or have been entitled, under the authority of this Act, to charge against any other person, or which he may have deducted or retained, or have been, or be entitled as aforesaid, to deduct or retain for any payment to which such person claiming exemption as aforesaid may be liable; or if any such person shall fraudulently make a second claim for the same cause —every such person so offending shall forfeit a sum not exceeding five hundred Rupees, and treble the Duties chargeable in respect of all the sources of his income, as if such claim had not been made or allowed; and if any person shall knowingly and wilfully aid, abet, or assist any such person in committing any such fraud as aforesaid, the person so aiding, abetting, or assisting, shall forfeit a sum not exceeding five hundred Rupees.

False claim to abatement or exemption.

CCVIII. Any person who shall be guilty of any offence mentioned in Section LXXV. of this Act, in regard to the Composition therein mentioned, shall forfeit a sum not exceeding five hundred Rupees and treble the Duties justly chargeable in respect of all the sources of his income.

Penalty under Section LXXV. relating to composition.

CCIX. If any person, being duly summoned to appear before the Collector or Commissioners as aforesaid, for any of the purposes mentioned in this Act, shall refuse or neglect to appear before the Collector or Commissioners at the time and place appointed for that purpose, or if any such person, being summoned, shall appear before the Collector or Commissioners, but shall refuse to be sworn or to subscribe such oath as aforesaid, or having taken and subscribed the same, shall refuse to answer any question touching the

Refusal to appear before Commissioners.

matters depending before the Collector or Commissioners, every person so offending shall forfeit a sum not exceeding two hundred Rupees for every such offence.

Penalty for refusal or neglect to deliver list, return, or declaration.

CCX. If any person who ought by this Act to deliver any list, return, or declaration, shall refuse or wilfully neglect so to do within the time limited in any notice given under this Act, or shall under any pretence wilfully delay the delivery thereof, every such person so offending shall forfeit any sum not exceeding two hundred Rupees, and shall be liable to be assessed in treble the amount with which he is justly chargeable.

Penalty for refusal or neglect to deliver returns or to appear before Collector or Commissioners, when required to do so.

CCXI. If any person required by the Collector or Commissioners under this Act, to make out, verify, or deliver any return required by this Act, or to appear before the Collector or Commissioners, shall refuse or wilfully neglect to make out, verify, or deliver such return, or to appear before the Collector or Commissioners, within the time limited by the Collector or Commissioners in pursuance of this Act, every such person so offending shall forfeit any sum not exceeding two hundred Rupees, and shall be liable to be assessed in treble the amount with which he is justly chargeable.

Penalty for violation of secrecy.

CCXII. If any person, being legally bound by an oath or solemn affirmation of secrecy under this Act, shall wilfully disclose any matter which by such oath or affirmation he is bound to keep secret, he shall be liable to be imprisoned with or without hard labor for a period not exceeding three years, and shall also be liable to a fine not exceeding five thousand Rupees.

No person not served with particular notice to be liable to penalties.

CCXIII. No person who shall not have been served in the manner directed by Section XXXVIII. of this Act with the notice provided by that Section, shall be liable to the penalties before mentioned for not delivering a return or declaration of his profits or income.

Penalty for obstruction to officers in due execution of duty.

CCXIV. If any person shall wilfully obstruct any Assessor or Collecting Officer, or any officer duly authorized in the execution of this Act in the due execution of his office or duty, such person

shall, for every such offence, forfeit a sum not exceeding five hundred Rupees.

Penalty for avoiding assessment by fraudulent removal or fraudulent disposition of property.

CCXV. If any person chargeable with any Duties under this Act, shall, by fraudulently changing his place of residence, or by fraudulently converting his property or any part thereof, or by fraudulently conveying or assigning, or pretending to convey or assign the same, or by fraudulently altering any security with relation to such property, or by fraudulently rendering the same or any part thereof temporarily unproductive, in order that such person may not be charged for the same, or shall by any falsehood, wilful neglect, fraud, or contrivance whatsoever used or practised, avoid, or attempt to avoid being charged and assessed according to the true intent and meaning of this Act, every such person shall, on proof thereof before the Collector or Commissioners acting for the place wherein such person shall be chargeable, be charged and assessed in treble the amount of the charge which ought to have been made on such person; and if in any such case such person shall have been assessed in an amount less than the assessment which ought to have been made on him, he shall be assessed and charged in treble the amount of the difference between the sum with which such person shall have been charged and the sum with which he ought to have been charged, to be added to such assessment, and shall also be liable to be imprisoned with or without hard labor for a period not exceeding two years, and to a fine not exceeding one thousand Rupees.

Penalty for removing from District after assessment without leaving sufficient property, to satisfy Duties.

CCXVI. If any person, being assessed to the said Duties shall remove out of the District where he shall have been assessed to the said Duties, without first paying or discharging all the said Duties charged upon him which shall then be due and payable, and without leaving in such District sufficient property whereon the said Duties in arrear may be raised and levied and the same shall remain in arrear and unpaid for the space of twenty days after the time appointed by this Act for payment thereof, every such person shall forfeit (over and above the said Duties so left unpaid as aforesaid,) a sum not exceeding two hundred Rupees.

CCXVII. Nothing in this Act contained shall prevent any

Saving of punishment otherwise provided by law.

person being punished for any offence in any manner otherwise provided by law. Provided that if any proceedings be taken under this Act for the punishment of any person for an offence, a conviction or acquittal shall be a bar to any other proceedings for the same offence.

PART XX.

Mode of enforcing Penalties.

Cognisance of offences.

CCXVIII. Except as otherwise provided, all offences under this Act may be tried by any Magistrate, Joint Magistrate, or person lawfully exercising the powers of a Magistrate, unless the period of imprisonment to which the offender may be liable, exceed that which the Magistrate, Joint Magistrate, or other Officer as aforesaid is competent to award under the laws for the time being in force in the Presidency or place in which such Magistrate, Joint Magistrate, or other Officer as aforesaid is employed. When the period of imprisonment provided by this Act exceeds the period that may be awarded by such Magistrate, Joint Magistrate, or other Officer as aforesaid, the offender shall be committed for trial before the Sessions Judge, if the evidence given before such Magistrate, Joint Magistrate, or other Officer as aforesaid shall appear to such Magistrate, Joint Magistrate, or other Officer sufficient for the conviction of the accused.

District in which certain offences shall be tried.

CCXIX. Except as aforesaid, all offences declared to be punishable under this Act with fine or forfeiture, or fine and imprisonment, may be tried in the District or place in which the offence was committed, or in which the person charged with the same is apprehended.

Magistrate may refer offences punishable with fine to his Assistants for trial.

CCXX. A Magistrate may refer for trial and decision any charge of an offence hereby made punishable by fine only, to any of his Assistants, and in such case every such Assistant may exercise all the powers vested in a Magistrate by any law for the time being in force, subject to all the rules applicable to Criminal cases deputed to such Assistant acting judicially.

CCXXI. The local Government may give general authority

Local Government may authorize Assistants to exercise such powers without reference by Magistrate.

to any such Assistant to exercise, without reference by a Magistrate, any of the powers which such Assistant is hereby rendered competent to exercise upon reference by a Magistrate, subject to appeal to the Magistrate from any conviction by such Assistant within one month from the date of conviction.

Magistrate may call for any case pending before such Assistant.

CCXXII. A Magistrate may at any time call from any of his Assistants, any case pending before such Assistants.

Jurisdiction over British subjects committing certain offences beyond the limits of Supreme Court.

CCXXIII. If any offence which by this Act is declared to be punishable with fine and imprisonment, or imprisonment only, shall be committed by a European British subject beyond the local limits of the jurisdiction of Her Majesty's Supreme Courts of Judicature, the offender shall be liable, upon conviction before one of the said Supreme Courts of Judicature, to the punishment to which by this Act the offender is declared to be liable upon conviction.

Summary jurisdiction in respect of certain offences committed within the limits of Supreme Court.

CCXXIV. If any offence which by this Act is declared to be punishable with fine or forfeiture, or with fine and imprisonment not exceeding six months, shall be committed by any person within the local limits of the jurisdiction of any Court of Judicature established by Royal Charter, such offence shall be punishable upon summary conviction by any Magistrate of Police of the Presidency Town or Station in which such Court is held.

Conviction to be quashed on merits only.

CCXXV. No conviction, order, or judgment under the last preceding Section shall be quashed for error of form or procedure, but only on the merits, and it shall not be necessary to state on the face of the conviction, order, or judgment the evidence on which it proceeds, but the depositions taken, or a copy of them, shall be returned with the conviction, order, or judgment in obedience to any writ of *certiorari*, and if no jurisdiction appears on the face of the conviction, order, or judgment, but the depositions taken supply that defect, the conviction, order, or judgment shall be aided by what so appears in such depositions.

All other offences committed within the limits of Supreme Court, punishable by such Court.

CCXXVI. All other offences punishable under this Act, which shall be committed within the local limits of any Court of Judicature established by Royal Charter, shall be punishable by such Court.

Levy of forfeitures and penalties by distress.

CCXXVII. All fines, forfeitures, or penalties imposed under the authority of this Act for offences punishable by any Magistrate, or person lawfully exercising the powers of a Magistrate, or Assistant Magistrate, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant under the hand of any of the above-named Officers.

Procedure until return is made to warrant of distress.

CCXXVIII. In case any such fines, forfeitures, or penalties shall not be forthwith paid, any such Officer may order the offender to be apprehended and detained in safe custody until the return can be conveniently made to such warrant of distress, unless the offender shall give security to the satisfaction of such Officer for his appearance at such place and time as shall be appointed for the return of the warrant of distress.

Imprisonment, if distress not sufficient.

CCXXIX. If upon the return of such warrant it shall appear that no sufficient distress can be had whereon to levy such fine, forfeiture, or penalty, and the same shall not be forthwith paid, or in case it shall appear to the satisfaction of such Officer, by the confession of the offender or otherwise, that he has not sufficient goods and chattels whereupon such fine or sum of money could be levied if a warrant of distress were issued, any such Officer may, by warrant under his hand, commit the offender, provided he is not a European British subject, to prison, there to be imprisoned, according to the discretion of such Officer, for any term not exceeding two calendar months when the amount of fine shall not exceed fifty Rupees, and for any term not exceeding four calendar months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six calendar months in any other case, the commitment to be determinable in each of the cases aforesaid on payment of the amount.

CCXXX. If the offender shall be a European British subject,

Levy of fines from European British subjects.

the Magistrate shall record the facts and transmit such record to the District Court of the District wherein the offender is convicted, and the amount of the fine, forfeiture, or penalty and the costs (if any) shall be levied in the manner provided for the execution of decrees of the Civil Court.

Award of hard labor not to be commuted to the payment of a fine.

CCXXXI. Whenever an award of hard labor is made under this Act, the Court shall not commute such labor to the payment of a fine under Regulation II. 1834 of the Bengal Code.

Penalties not exceeding 200 Rs., and increased assessments recoverable before Collector or Commissioners.

CCXXXII. All forfeitures or penalties not exceeding two hundred Rupees, imposed by this Act, exclusive of any increased Duties chargeable under this Act, may be recovered before the Collector or before two or more Commissioners in and for the place wherein the offence shall have been committed or the offender shall have been assessed.

Cognizance of offences how to be taken by Collector or Commissioners.

CCXXXIII. The Collector or Commissioners shall take cognizance of any offence of which he or they shall have cognizance under the last Section, upon information or complaint in writing made to them, and upon a summons to the party accused to appear before the Collector or Commissioners at such time and place as they shall fix, or without such summons, in case the person shall be guilty of the offence in their presence.

Adjudication to be in a summary way.

CCXXXIV. The Collector or Commissioners shall examine into the matter of fact and proceed to hear and determine the same in a summary way, and upon proof made thereof, either by voluntary confession of the party accused, or by evidence of one or more credible witness or witnesses, or otherwise, as the case may require, to give judgment for the penalty, or if the Collector or Commissioners shall think proper, to mitigate the same for such part of the penalty as he or they shall direct.

Penalty to be charged in addition to Duties assessed.

CCXXXV. In such case the Collector or Commissioners shall assess the penalty upon the party, and charge the same in the assessment to which the penalty adjudged shall particularly relate, and in addition to the Duties in case the party shall be charged therewith.

Levy of forfeitures or penalties.

CCXXXVI. The forfeitures or penalties so adjudged shall be levied in like manner as the Duties under this Act.

Rewards to informers.

CCXXXVII. The informer shall, in all cases, upon the Collector or Commissioners certifying that he has conducted himself properly in regard to his information, be entitled to receive one moiety of the amount of the penalty awarded, exclusive of any increased assessment; and when more informers than one are concerned, they shall be entitled to such moiety in such shares as the Collector or Commissioners shall award.

Adjudication of Collector or Commissioners final.

CCXXXVIII. The adjudication of the Collector or Commissioners shall, in all cases cognizable by them, be final and conclusive to all intents and purposes, without power of appeal from the same, and the proceedings of the Collector or Commissioners shall not be removable by any process whatever into any Court of Law or Equity, or be subject to revision.

Cost of suit recoverable besides penalty.

CCXXXIX. In any proceeding for the recovery of any such Duties or penalties respectively granted or imposed by this Act, such Duties and penalties respectively shall be recoverable with full costs of suit, and all charges and expenses attending the same.

Increased Duty may be added to assessment.

CCXL. Whenever by this Act any increased rate of Duty is imposed as a penalty, or as part of, or in addition to, any penalty, such increased rate of Duty shall be added to the assessment, and be collected and levied in like manner as any Duties included in such assessment may be collected and levied.

Penalties to be paid to Income Tax Account

CCXLI. All penalties, forfeitures, and fines levied under this Act, after deducting any portion thereof hereby authorized to be paid as aforesaid, shall be paid to the account to be headed Income Tax Account, in Section CXC. of this Act mentioned, and shall be held available for the purposes of this Act.

PART XXI.

Miscellaneous.

Provision applied to

CCXLII. Every provision in this Act contained and applied to the Duties in any particular Schedule, which

any particular Schedule may extend to any other Schedule.

shall also be applicable to the Duties in any other Schedule, and not repugnant to the provisions for ascertaining or charging the Duties in such other Schedule, shall, in ascertaining and charging the same, be applied as fully and effectually as if the application thereof had been so expressly and particularly directed.

Governor-General in Council may postpone operation of Act in any part of India.

CCXLIII. It shall be lawful for the Governor-General of India in Council to postpone, for such period, as he shall deem necessary, the period for this Act to come into operation in any part of India. But no other tax or duty shall, during such period, be leviable in that part of India, except such as could be lawfully levied in addition to the Duties provided by this Act.

Proviso.

Indemnity.

CCXLIV. No action or other proceeding shall be had or taken against any Officer for any thing done by him in or relating to the imposition or levying of any tax or duty heretofore imposed or levied with the sanction of the Governor-General of India in Council or of the local Government; and every tax or duty heretofore assessed or imposed by any such Officer with such sanction as aforesaid, so far only as concerns such assessment or tax or duty for the current year, may be levied or collected in the manner heretofore sanctioned by the Governor-General of India in Council or by the local Government.

Notice and limitation of suits.

CCXLV. No suit, action, or other proceeding shall be commenced or prosecuted against any person for any thing done in pursuance of this Act, without giving to such person a month's previous notice in writing of the intended action and of the cause thereof, nor after the expiration of three months from the accrual of the cause of action or other proceeding.

Power to Governor-General in Council to issue forms.

CCXLVI. *Clause* 1. It shall be lawful for the Governor-General of India in Council, from time to time, to prescribe and issue the forms of returns, declarations, acknowledgments, certificates, oaths, affirmations, contracts of composition, and the forms of all other documents and proceedings required by this Act, and to vary or alter the same from time to time.

Clause 2. Such forms shall be published at least three times

in the Government Gazette of the several Presidency Towns and of all the places where any Government Gazette shall be published.

Clause 3. When they shall have been so published, and until they shall be altered, varied, or annulled by any subsequent order of the Government, the said forms shall be observed by all persons required by this Act to do the matters referred to in such forms, and all notices given, and all returns or declarations made, and all oaths or affirmations taken or made, and all proceedings had according to such forms respectively, shall, if otherwise valid, be deemed valid and effectual.

Power to Governor-General in Council to allow salaries.

CCXLVII. It shall be lawful for the Governor-General of India in Council, from time to time, to allow from the Duties collected under this Act, any salaries or any remuneration, whether by way of fixed fees or of percentage on sums realised or otherwise, to any officer or person who shall be appointed under this Act for the performance of any of the Duties prescribed by this Act.

Interpretation of terms.

CCXLVIII. The following words and expressions in this Act shall have the meanings hereby assigned to them, unless there be something in the subject or context repugnant to such meanings:—

Number. Gender.

1. Words importing the singular number shall include the plural number, and words importing the plural number shall include the singular number; words importing the masculine gender shall include females.

"India."

2. The Word "India" shall mean the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Vic. c. 106, entitled "An Act for the better Government of India."

"Governor-General in Council."

3. The expression "Governor-General in Council" shall include the President of the Council of the Governor-General of India in Council.

"Local Government."

4. The words "Local Government" shall mean the persons immediately administering the Executive Government in each Presidency, Lieutenant-Governorship, or Province in India.

"Lieutenant-Governorship."

5. The expression "Lieutenant-Governorship" shall mean any part of India for the time being under the Government or administration of any Lieute-

nant-Governor appointed under, or by virtue of any Act of the Imperial Parliament relating to India.

"Division."

6. The word "Division" shall mean any Division of, or for purposes of, Revenue.

"Chief Revenue Authority."

7. The expression "Chief Revenue Authority" shall mean the person or Board exercising the chief authority for the time being in matters of revenue alone in any Presidency, Lieutenant-Governorship, or Province, though subject to the order of the local Government and shall not include the local Government. When in any Presidency, Lieutenant-Governorship, or Province, there shall be no person exercising such chief revenue authority throughout such Province, other than the person administering the Executive Government, the expression shall mean the person or Board exercising chief authority in matters of revenue in any Division of such Presidency, Lieutenant-Governorship, or Province.

"Collector."

8. The word "Collector" shall include any Officer exercising, by authority of Government, the duties of a Collector of Land Revenue, by whatever name his office may be designated.

"Magistrate."

9. The word "Magistrate" shall include an Assistant Magistrate exercising, or any person duly invested with, the powers of a Magistrate. It shall not include Justice of the Peace.

"Land."

10. The word "Land" shall include and extend to all immovable property, and all hereditaments and tenements whatsoever, whether corporeal or incorporeal, of the nature of immovable property, except houses, and all estates or interests therein, whether freehold or chattel, or held by lease, or howsoever otherwise, or whether partial or derivative or otherwise, and whether in divided or undivided shares.

"House."

11. The word "House" shall include and extend to all messuages and buildings used for the purpose of habitation; and all warehouses, counting houses, factories, and shops, and to all out-houses, offices, godowns, and buildings attached to, or used with, or for the purposes of, such messuages, buildings, warehouses, factories, or shops.

12. The word "Rack-rent" shall mean the full rent or value

"Rack-rent." at which lands or houses are worth to be let for the year.

13. The word "Owner," as applied to land or houses, shall include any person beneficially entitled in possession to an absolute estate, or to any lesser estate, whether freehold or chattel, or partial or derivative, or otherwise, at law or in equity; or any person entitled to any such estate in trust for another person.

"Owner."

14. The word "Holder," as applied to land or houses, shall include any person in possession or in the receipt of the rents and profits of land or houses under any claim to be entitled to any estate, whether freehold or chattel, partial or derivative, or otherwise, at law or in equity: and whether on his account or on account of any other person.

"Holder."

15. The word "Person" shall include any Corporation.

"Person."

16. The word "Representative" shall extend to any person who is a legal representative of a person deceased, and shall include, in the case of a deceased person subject to the Law of England, the heirs or devisees of such a person in regard to real estates, and the executors or administrators of such person in regard to personal estates; and in the case of a deceased Mahomedan or Hindoo, the heirs and persons legally entitled to succeed to the property of such person. It shall also include the successors of a Corporation.

"Representative."

17. The word "Company" shall extend to any Society, Association, Fraternity, or Partnership of any kind whatever, of or carried on by more than six persons.

"Company."

18. The word "Trade" shall include any manufacture, and any business, adventure, or concern in the nature of a trade.

"Trade."

19. The word "Profession" shall extend to any employment, vocation, or calling, other than a trade.

"Profession."

20. The word "Profits" shall include gains of every kind.

"Profits."

"Lunatic."

21. The word "Lunatic" shall include every person of unsound mind, and every person being an idiot.

"Oath."

22. The word "Oath" shall include an affirmation in the case of any person entitled by law to make any affirmation in lieu of any oath or affidavit.

Commencement and continuance of Act.

CCXLIX. This Act shall commence and take effect from and after the 31st day of July 1860, and together with the Duties therein contained, shall continue in force until the 1st day of August 1865, and no longer.

Provided that this Act and the said Duties shall not then cease with respect to any assessment which ought to have been made before the said last-mentioned day, but which shall not then have been made and completed; nor with respect to any of the said Duties which shall have been assessed and shall then remain unpaid; nor with respect to any penalty before then incurred; nor with respect to any offence of which any person shall have been guilty before that day; nor with respect to any deduction of the said Duties, or any portion thereof, authorized by law to be made out of any rent, interest, or other annual payment which shall become due or payable before the said last-mentioned day; nor with respect to any penalty for refusing to allow any such deduction, although such refusal may be after the said last-mentioned day; nor shall the said Duties cease in any case where the assessments for the preceding year shall not have been completed before the said 1st day of August 1865.

And that all the powers and provisions of this Act, shall continue in force, for making and completing all such assessments as aforesaid, and for levying and recovering the Duties so assessed, or to be assessed, and all arrears of such Duties, and also for reassessing the same in default of payment in the manner herein directed, and for making and allowing uch deduction as aforesaid, and for the suing for, adjudging, and recovering any penalty which shall have been or may be incurred, and for the punishment of any offence of which any person shall have been guilty before that day.

EMIGRATION TO NATAL.

ACT No. XXXIII. OF 1860.

[*Received assent of the G. G. on the 24th July*, 1860.

Recites expediency of legalizing Cooly emigration to Natal.

1. Repeals Act XIV. of 1839, so far as it would apply to emigration from Presidency Ports to Natal.

2. Extends Act XXXI. of 1855, to emigration to Natal. Voyage to Natal from Calcutta 12 weeks, Madras 10, Bombay 10: but Ships may sail at any season.

3. Act to take effect from time of Notification of Governor-General in Council.

An Act relating to Emigration to the British Colony of Natal.

Preamble.

Whereas it is expedient to render lawful the Emigration of laborers being Native Inhabitants of British India to the British Colony of Natal, and to extend the provisions of Act XXXI. of 1855, *(relating to the Emigration of Native laborers to the British Colonies of St. Lucia and Granada)* to the Emigration of Native Inhabitants of British India who may emigrate to Natal; It is enacted as follows:—

Act repealed.

I. Act XIV. of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the British Colony of Natal, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, to the said Colony, is repealed.

Act XXXI. of 1855 extended.

II. All the provisions of Act XXXI. of 1855 and fo the Schedule thereto shall extend and apply to Native Inhabitants of the British Territories in India who shall emigrate to Natal, and that Act shall be read as if the words "or the British Colony of Natal" had been inserted therein after the words "Saint Lucia and Grenada" or "Saint Lucia or Grenada," whenever those words occur in the said Act. Provided that the probable length of the voyage to Natal from the Ports of Calcutta, Madras, and Bombay shall for the purposes of this Act be deemed to be.—

Duration of voyage.

From the Port of Calcutta,..	12	Weeks.
„ the Port of Madras,.....	10	„
„ the Port of Bombay,.....	10	„

and Provided that it shall be lawful for ships or vessels carrying Emigrant laborers to the said Colony of Natal to sail at any season of the year.

Commencement of Act.

III. This Act shall take effect as to the said Colony of Natal from the day when the Governor-General of India in Council shall notify in the Calcutta Gazette that such Regulations have been provided, and such measures taken, as the Governor-General in Council deems necessary for the protection of such Emigrants during their residence in the said Colony of Natal and in respect of their return to India.

INDEMNITY FOR ILLEGAL ACTS DURING MUTINIES.

ACT No. XXXIV. OF 1860.

[*Received assent of the G. G., on the 2nd August,* 1860.

Recites imposition of fines &c. during Mutinies; also assessments &c. for re-construction, &c. of public buildings; and expediency of indemnifying Officers of Government in respect thereof.

1. Legalizes all fines &c. imposed since 10th May 1857, on any account in connection with the Mutinies, and discharges all persons from liability in respect thereof.

2. Legalizes all acts done during same period in pursuance of order of Government.

An Act to indemnify Officers of Government and other persons in respect of fines and contributions levied, and acts done by them during the late disturbances.

Preamble.

Whereas fines and penalties have been imposed and levied by Officers of Government in respect of acts committed during the late disturbances; and whereas assessments and contributions have been made and collected for the reconstruction or repairs of public buildings destroyed or injured during the same period and for other purposes; and whereas it is expedient to indemnify all Officers of Government and other persons acting under the authority of Officers of Government from any penalties or proceedings to which they may have rendered themselves liable since the 10th day of May 1857 in respect of the said fines, penalties, assessments, and contributions, and of any other acts which may have been done by them, and which have been or shall be ratified by the Executive

Government, and to confirm and make valid the levy of the said fines, penalties, assessments, and contributions, and the said acts; It is enacted as follows:—

Certain fines, penalties, &c., imposed since 10th May 1857 to be deemed to have been duly imposed and levied.

I. All fines, penalties, assessments, and contributions imposed since the 10th day of May 1857 in respect of the destruction or injury of Government or other property, or on any other account connected with the late disturbances, by any Officer of Government, or by any person acting under the authority of an Officer of Government, shall be deemed to have been duly imposed and levied if the same shall have been levied in pursuance of an order of Government or shall have been or shall be ratified by the Executive Government; and all Officers of Government and all persons acting under their authority are hereby indemnified and discharged from liability in respect of any such fines, penalties, assessments, and contributions, and levying the same, and no suit or proceeding shall be commenced or prosecuted in respect thereof. Provided that nothing in this Act shall authorize the levy of any fine, penalty, assessment, or contribution not already levied.

Proviso.

Officers indemnified for certain acts done since 10th May 1857.

II. All acts done since the 10th day of May 1857 in connection with the late disturbances by Officers of Government, or by persons acting under their authority or otherwise, in pursuance of an order of Government, or which shall have been or shall be ratified by the Executive Government, are hereby confirmed and made valid; and all such Officers of Government and persons as aforesaid are hereby indemnified and discharged from liability in respect of such acts.

TRANSPORTATION OF CONVICTS.

ACT No. XXXV. OF 1860.

[*Received assent of the G. G., on the 2nd August,* 1860.

Recites expediency of providing for transportation of convicts only to such places as Governor-General in Council shall appoint.

1—3. Court shall not in its sentence specify place to which convict shall be transported; but (2,) Governor-General in Council shall appoint places for transportation, and local Government shall give order for convicts being sent

to such places and (3) convict until sent shall be dealt with sentence as to imprisonment, &c. and time of imprisonment shall count as part of sentence.

4. Person undergoing transportation sentenced again to transportation need not be removed.

5. Act not to affect the provisions of Act XXIV. of 1855.

An Act relating to the Transportation of Convicts.

Preamble.

Whereas it is expedient to provide that convicted offenders sentenced to transportation shall be transported to such places only as the Governor-General of India in Council shall appoint; It is enacted as follows:—

Place of transportation not to be specified in sentences.

I. From and after the passing of this Act, whenever any person convicted of an offence which is punishable with transportation shall be sentenced by any Court within the British Territories in India to be transported, such Court shall not in its sentence specify the place to which such person shall be sent for the purpose of undergoing the sentence of transportation.

Governor-General in Council to appoint a place or places.

Local Government to direct removal of persons sentenced to such place or places.

II. It shall be lawful for the Governor-General of India in Council from time to time to appoint a place or places within the British Territories in India to which persons sentenced to transportation shall be sent: and the local Government of the Presidency or place in which such persons shall have been sentenced, or some Officer duly authorized by the local Government, shall give orders for their removal to the place or places so appointed.

Provision for intermediate custody.

III. In every case in which a sentence of transportation is passed, the person upon whom such sentence is passed, until he is transported, shall be dealt with in the same manner as if sentenced to imprisonment with hard labor, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment.

Execution of sentences of transportation passed on persons already undergoing transportation under a previous sentence.

IV. When sentence of transportation shall be passed on a person already undergoing transportation under a sentence previously passed for another offence, it shall not be necessary for the Government to order the removal of such person from the place in which he is so undergoing transportation.

V. Nothing in this Act shall affect the provisions of Act XXIV. of 1855 (*to substitute penal servitude for the punishment of transportation in respect of European and American Convicts, and to amend the Law relating to the removal of such Convicts*), or the provisions of any Act of Parliament passed in the United Kingdom of Great Britain and Ireland for punishing mutiny and desertion.

Saving Clause.

STAMP ACT.

ACT No. XXXVI. OF 1860.

[*Received assent of the G. G. on the 2nd August*, 1860.

Recites expediency of consolidating and amending the Law.

1. Repeals Bengal R. 12, 1826 and corresponding registered R. 12th July 1827; 10, 1829. Madras R. 13, 1816, Bombay R. 18, 1827; 3 and 6, 1828; 8, 1830; 3, 1831; 14, 1831, and Act X. of 1859, Section 37, relating to Bengal.

2. Deeds, &c. of the kinds specified in Schedule A. shall be stamped according to Schedule.

3. Persons drawing Bills, &c. or being party to any deed, &c. on paper unstamped or insufficiently stamped according to Schedule A. shall be liable to prescribed penalty.

4. Governor-General in Council to prescribe the form, &c. of stamps, mode of impressing, &c. by orders to be published in *Gazette*.

5, 6. Stamps may be impressed or affixed, and half anna postage stamps may be used on receipts, drafts, orders, &c. until Governor General in Council disallow (6,) such stamps to be cancelled by writing thereon the initials of the user, under prescribed penalty.

7—9. Foreign Bills payable both in and out of India shall be subject to stamp duties, the former by adhesive stamps to be affixed (9,) by holder and (8,) every Bill drawn out of British Territory in India to be deemed Foreign; and (9,) affixed stamp to be cancelled by endorser, &c. subject to penalty.

10. Persons issuing Bills purporting to be in sets and not issuing the whole set on proper stamps to be subject to penalty.

11. Persons fraudulently using adhesive stamp which has been used or committing any fraud against the Act not specially provided for, to be liable to penalty.

12. No deeds, &c. unless properly stamped shall be received in evidence or recognized for any purpose by public Officer, but this not to apply to deeds &c. offered in evidence in Criminal proceeding.

13. Deeds, &c. insufficiently stamped from accident, ignorance, inadvertence, mistake, &c. may be properly stamped on application to Collector subject to a penalty, (2,) of the amount deficient and treble that if brought within

thirty days after execution, and of five times that amount within six months, and after that, twenty times the deficient duty; (3,) but the correction of the Stamp to be at discretion of the Collector, subject to an appeal if he refuses; and (4,) in case of deeds offered in evidence in Civil Court, the deficient and penal duty may be paid into Court; and (5,) such payment shall be entered in a book and endorsed on deed, &c. and monies received shall be returned to Collector who may make order for payment thereof; (6,) except on these terms no deed, &c. shall be received; and (7,) incidental costs shall be paid by party offering the deed, &c. and (8,) Government shall not be responsible for loss, &c. these provisions not to apply to Bills or money orders.

14. No sum shall be recovered under any deed, &c. beyond the amount for which the Stamp is sufficient.

15. Persons receiving payment to give Stamp receipt, under penalty for default, and the drawers, makers, &c. of Bills, Drafts, &c. to bear the expense of Stamps.

16. Except in Supreme Court, no kind of instrument, &c. mentioned in Schedule B. shall be filed, &c. in any Court, unless properly stamped.

17. The Schedules of this Act to be of same force as if in body of Act.

18. The Governor-General in Council may direct lower rates to be taken in any District than are prescribed in the Act, on all or any of the deeds &c. specified in Schedule or may altogether exempt any District.

19. Empowers the local Governments to appoint Officers and assign Districts to them.

20. Vendors of Stamps to have their license, &c. stuck up in place where they carry on their business.

21, 22. Vendor of Stamp to write on such Stamp name of person to whom issued, date and his own signature, subject on default to penalty, and (22,) to fine, imprisonment, &c. for false note thereof.

23—25. Obliges vendor of Stamps to deliver Stamp on demand and tender of value subject on default to penalty, and (24,) shall not demand more than the authorized price; subject (25,) on breach of duty to imprisonment, fine, &c.

26. Vendor shall not sell old Stamps after new ones are prescribed by Governor-General in Council.

27—30. Vendor refusing, &c. to render accounts according to his Bond may be proceeded against by Collector, &c.; and (28,) on resignation of his Office if he does not account, &c. shall be liable to fine, besides (according to circumstances) proceeding for embezzlement; and (29,) upon death of vendor, his executor, &c. not accounting, &c. may be fined; and in all the above cases the sureties may be proceeded against.

31. No person not being a licensed vendor shall sell Stamps, except adhesive.

32. Damaged and spoiled Stamps of unexecuted deeds, &c. and Stamps which have become of no avail in manner specified may be returned to Col-

lector and new Stamps given by him, except Bill Stamps of which one of a set has been delivered; (2,) any owner of damaged and spoiled Stamp may within a year apply to Collector for new Stamps in lieu.

33. Any person fraudulently counterfeiting any Stamp, or altering its apparent value or issuing or using counterfeit, &c. shall be liable to imprisonment, &c. or transportation, &c.

34. No J. P. shall receive or attest any affidavit not made for purpose of being filed, &c. unless written on proper Stamp, &c.

35—37. Deeds of sale of any lands shall state the true consideration subject to a penalty of 500 Rs. and penal duty, &c. and (36,) any person inserting less than full amount shall be liable to penalty; no proceedings be taken under this Act except by a Government Officer.

38, 39. J. P., and Magistrate to have jurisdiction except under Section XXXIII. and (39) under that Section the Supreme Court or Sessions Judge.

40. The Officer or Court by which the fine is adjudicated may issue warrant to levy it, &c.

41. Interprets the words "Stamp;" "Bill of Exchange;" "Value."

42. Act to come into force from 1st October 1860. Schedule A. as to deeds, instruments and writings requiring Stamps and what Stamps. Schedule B. as to duties chargeable on Law proceedings.

An Act to consolidate and amend the law relating to Stamp Duties.*(a)*

Preamble.

Whereas it is expedient to consolidate and amend the law relating to Stamp Duties; It is enacted as follows:—

Repeal of Regulations.

I. From the time when this Act shall come into force, Regulation XII. 1826 *(for raising and levying Stamp Duties within the Town of Calcutta)* with the corresponding Regulation enacted on the 14th June 1827 and registered in the Supreme Court at Calcutta on the 12th July 1827, and Regulation X. 1829 of the Bengal Code *(for consolidating into one Regulation, with modifications, the existing enactments relating to the collection of Stamp Duties)*, Regulation XIII. 1816 of the Madras Code *(for modifying and amending the Rules before enacted regarding Stamped Paper and Stamped Cadjans; and for consolidating the Fees payable on the institution of suits, and on exhibits and summonses for witnesses, with the Duty levied by means of Stamps)*, Regulation XVIII. 1827 of the Bombay Code *(for levying a Stamp Duty on certain papers within the Territories subordinate to the Presidency of Bombay)*, Regulation III. 1828 of the same Code *(for subjecting to the Stamp*

(a) Amended by Act XL. 1860. See *post*.

Duty certain Plaints and other Papers exempted therefrom under Regulation XVIII. of 1827*)*, Regulation VI. 1828 of the same Code *(for extending in the same manner as in suits before the Courts of Civil judicature, Stamps to suits cognizable by Collectors under the operation of Chapter VIII. Regulation XVII. of* 1827 *or any other now in force)*, Regulation VIII. 1830 of the same Code *(for changing the Counter-Stamp to be impressed on Stamped Paper and other material)*, Regulation III. 1831 of the same Code *(for subjecting to the Stamp Duty copies of decrees passed by Native Commissioners, exempted therefrom under Regulation XVIII. of* 1827*)*, Regulation XIV. 1831 of the same Code *(for rescinding that part of Section VII. Regulation XVIII. of* 1827, *which requires all Stamped Paper to be endorsed with the Official signature of some person belonging to the Office of Superintendent of Stamps, and prescribing how that duty shall henceforth be performed)*, and Section XXXVII. of Act X. of 1859 *(to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal)* are repealed, except in so far as they rescind other Regulations or parts of other Regulations, and except as regards Deeds, Instruments, or Writings which shall have been made or executed, and all proceedings or matters which shall have taken place before this Act shall come into force.

Stamp Duty payable under Schedule A.

II. For every Deed, Instrument, or Writing which shall be executed from the time when this Act shall come into force, and which shall be of any of the kinds specified as requiring Stamps by the Schedule A. annexed to this Act, there shall be payable to Government a Stamp Duty of the amount indicated in the said Schedule to be proper for such Deed, Instrument, or Writing.

Penalty for drawing &c. unstamped or insufficiently stamped Bill of Exchange, &c.

III. If any person shall draw, accept, endorse, negotiate, pay, or receive payment of any Bill of Exchange, Promissory Note, Draft, Cheque, or other similar Instrument, or if any person shall make, execute, sign, or be a party, to any Deed, Instrument, or other Writing, engrossed on unstamped or insufficiently Stamped paper or other material, which should bear a Stamp of the value set forth in Schedule A. such person, so offending, shall forfeit a sum not exceeding one hundred Rupees, or a sum equal to ten times the value of the Stamp omitted to be used, if the sum so calculated exceed one hundred Rupees.

Governor-General in Council to prescribe the form of Stamps to be used, &c.

IV. The Governor-General in Council shall prescribe the form and material of the Stamps to be used, and the mode and place of impressing, affixing, or denoting thereon the value thereof under the provisions of this Act, and may, from time to time, alter and vary such orders. All orders made by the Governor-General in Council under this Section shall be published in the Official Gazettes of the several Presidencies and places in which such orders are to be in force.

Receipt Stamps how to be denoted.

V. The Duty imposed by this Act on every Receipt, and on every Draft or Order for the payment of money on demand, and bearing the date on which the Draft or Order is made, may be denoted by a Stamp impressed upon the paper whereon any such Instrument is written, or by an adhesive Stamp affixed thereto. It shall be lawful, until the Governor-General in Council shall direct to the contrary by an order to be published in the Gazette, to use a Postage Stamp of the value of half anna on every Receipt, Draft, or Order for which a half anna Stamp is required by this Act.

Obliteration of adhesive Stamp when used.

VI. In any case where an adhesive Stamp shall be used for the purpose aforesaid on any Receipt or upon any Draft or Order chargeable with the Duty of half anna or of one anna by this Act, the person by whom such Receipt shall be given or such Draft or Order signed or made, shall, before the Instrument shall be delivered out of his hands, custody, or power, cancel the Stamp so used, by writing thereon his name, or the initial letters of his name, or in such other manner as to show that such Stamp has been made use of and so that the same may not be again used; and if any person who shall write or give any such Receipt or discharge or make or sign any such Draft or Order with any adhesive Stamp thereon, shall not *bonâ fide* in manner aforesaid cancel such Stamp, he shall forfeit a sum not exceeding one hundred Rupees.

Stamps on Foreign Bills of Exchange, &c.

VII. The Duties imposed by this Act on Foreign Bills of Exchange shall be paid on account of all Bills drawn within, but payable out of the British Territories in India, and on account of all Bills drawn out of the British Territories in India, which shall be payable within those Territories, or shall therein be endorsed, transferred, or otherwise

negotiated, wheresoever the same may be payable; and the Duties so imposed on Bills drawn out of the British Territories in India, shall be denoted by adhesive Stamps to be affixed to such Bills as hereinafter directed.

Bills purporting to be drawn abroad deemed for the purposes of this Act to be so drawn.

VIII. Every Bill of Exchange which shall purport to be drawn at any place out of the British Territories in India shall, for all the purposes of this Act, be deemed to be a Foreign Bill of Exchange drawn out of the British Territories in India, and shall be chargeable with Stamp Duty accordingly, notwithstanding that in fact the same may have been drawn within those Territories.

The holder of a Bill drawn out of the British Territory to affix an adhesive Stamp thereon before negotiating it.

IX. The holder of any Bill of Exchange drawn out of the British Territories in India and not having a proper adhesive Stamp affixed thereon as herein directed shall, before he shall present the same for payment, or endorse, transfer, or in any manner negotiate such Bill, affix thereon a proper adhesive Stamp for denoting the duty by this Act charged on such Bill; and the person who shall endorse, transfer, and negotiate such Bill shall, before he shall deliver the same out of his hands, custody, or power, cancel the Stamp so affixed by writing across the same as his endorsement, his name or the name of his firm, and the date of the day and year on which he shall so write the same, or by affixing thereon or across the same the seal or mark which he is in the habit of using, or in such other manner as to show that the Stamp has been made use of and so that the same may not be again used: and if any person shall present for payment or shall pay or endorse, transfer or negotiate any such Bill as aforesaid whereon there shall not be such adhesive Stamp as aforesaid, duly affixed, or if any person who ought as directed by this Act to cancel such Stamp in manner aforesaid, shall refuse or neglect so to do, such person so offending in any such case shall be liable to the penalty prescribed in Section III. of this Act, and no person who shall take or receive from any other person any such Bill as aforesaid either on payment or as a security or by purchase or otherwise, shall be entitled to recover thereon or to make the same available for any purpose whatever unless at the time when he shall so take or receive such Bill, there shall be

Penalty for negotiating such Bill without a Stamp affixed or for neglecting to cancel such Stamp.

such Stamp as aforesaid affixed thereon and cancelled in the manner thereby directed.

Penalty for drawing and issuing or transferring or negotiating Bills purporting to be drawn in a set of three and not drawing the whole number of the set. Penalty on taking or receiving such Bills.

X. If any person shall, within the British Territories in India, draw and issue any Bill of Exchange payable out of the British Territories in India, purporting to be drawn in a set of three, and shall not draw and issue, on paper duly Stamped as required by law, the whole number of Bills which such Bill purports the set to consist of, or if any person shall within the British Territories in India transfer or negotiate any such Bill of Exchange as aforesaid purporting to be drawn in a set of three, and shall not at the same time transfer or deliver on paper duly Stamped as aforesaid the whole number of Bills which such Bill purports the set to consist of, every such person so offending in any of such cases, shall be liable to the penalty prescribed in Section III. of this Act; and if any person shall take or receive in the British Territories in India any such Bill as aforesaid either in payment, or as a security or by purchase or otherwise, without having transferred or delivered to him duly Stamped as aforesaid the whole number of Bills which such Bill purports the set to consist of, he shall not be entitled to recover on any such Bill or to make the same available for any purpose whatever.

Penalty for use of adhesive Stamp which has been removed from a Receipt, &c.

XI. If any person shall affix or use any adhesive Stamp which to his knowledge shall have been taken off or removed from any paper whereon any Receipt or any Draft, Order, or Bill of Exchange shall have been written, to or for any Receipt, Draft, Order, or Bill of Exchange, or any paper whereon any such Receipt, Draft, Order, or Bill of Exchange shall be or be intended to be written; or if any person shall do or practise or be concerned in any fraudulent act, contrivance, or device whatever not specially provided for by this or some other Act, with intent to defraud the Government of any Duty imposed by this Act upon Receipts or upon Drafts, Orders, or Bills of Exchange—every person so offending in any of the said several cases shall forfeit a sum not exceeding two hundred Rupees.

Effect of a Writing not duly Stamped.

XII. Except as otherwise provided by this Act, no Deed, Instrument, or Writing for which any Duty shall be payable under Section II. of this Act,

shall be received as creating, transferring, or extinguishing any right or obligation, or as evidence in any Civil proceeding in any Court of Justice, whether established by Royal Charter or otherwise, or shall be acted upon in any such Court or by any public Officer, or shall be registered in any public Office or authenticated by any public Officer, unless such Deed, Instrument, or Writing be upon a Stamp of a value not less than that indicated to be proper for it by the said Schedule. Provided that every Deed, Instrument, or Writing liable to Stamp Duty shall be admitted as evidence in any Criminal proceeding, although it may not have the Stamp required by law impressed thereon or affixed thereto.

Proviso.

XIII. *First*—Deeds, Instruments, and Writings executed on unstamped or insufficiently Stamped paper from accident, ignorance, inadvertence, mistake, or from other unavoidable cause, may be impressed with the requisite Stamp or Stamps, on application being made to the Collector of Stamp Revenue, after payment of so much as will make up the proper amount of Stamp Duty, and the penalties hereinunder stated, or such mitigated penalty as the local Government or any Board or Officer authorized by the local Government may prescribe. Provided always that the payment of such penalty shall exempt the person making the same from any other penalty provided by this Act for such neglect or omission, and that if any such other penalty shall already have been imposed, then the same shall be taken as far as it goes in reduction of any penalty arising under this Section.

Deeds inadvertently executed on unstamped or insufficiently stamped paper may be stamped on payment of proper Stamp Duty and penalty.

Proviso.

Second.—If the Deed, Instrument, or Writing executed as aforesaid on unstamped or insufficiently stamped paper be brought within thirty days from the date of execution, the requisite Stamp may be impressed on payment of so much as will make up the proper amount of Stamp Duty and treble the amount of the deficient Duty; if brought after thirty days from the date of execution, but within three months from that date, or if brought within six months from the time of this Act coming into force, the requisite Stamp may be impressed on payment of so much as will make up the proper amount of Stamp Duty

Penalty if executed on unstamped or insufficiently stamped paper and brought to be stamped within thirty days of execution.

Penalty if brought within three months of execution or six months of Act coming into force.

and five times the amount of the deficient Duty, or if not brought within the two periods last mentioned, the requisite Stamp may be impressed on payment of so much as will make up the proper amount of Stamp Duty and twenty times the deficient Duty.

Penalty if not brought within the two periods last mentioned.

Third.—It shall be the duty of the Collector of the Stamp Revenue of the District, or other Officer as aforesaid, to determine whether, upon payment of the penalties mentioned in the last preceding Clause, the requisite Stamp shall be impressed on any Deed, Instrument, or Writing which shall have been executed on unstamped or insufficiently Stamped paper, and the decision of the Collector shall be conclusive and final, except in cases in which he shall refuse to allow the Deed, Instrument, or Writing to be Stamped. The Board of Revenue or other general controlling Revenue Authority may, however, upon petition, order such penalty to be mitigated, and if paid, may order such part of it as they may consider proper to be returned.

Collector to determine whether, on payment of penalty, a Deed &c. executed on unstamped or insufficiently stamped paper shall be stamped.

In what cases decision of Collector final.

Mitigation of penalty.

Fourth.—Sections 130 and 131 of Act VIII. of 1859 (*for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter*) are hereby repealed, and in lieu thereof it is enacted as follows:—In all cases under this Act in which a Collector may impress a Stamp on payment of the proper amount of Stamp Duty and a penalty, any Civil Court may receive in evidence any Deed, Instrument, or Writing which might be so impressed, on payment into Court of the proper amount of Stamp Duty, and the penalty as by this Section imposed.

In what cases Civil Court may receive Deed &c. on payment of Stamp Duty and penalty.

Fifth.—An entry of such payment and of the amount thereof shall be made in a book to be kept in the Court, and shall also be endorsed on the back of the Deed, Instrument, or Writing, and shall be signed by a Judge of the Court. The Court shall at the end of every month make a return to the Collector of the Stamp Revenue of the District, of the monies (if any) which it has so received, distinguishing between the monies received by way of

Procedure on payment under preceding Clause.

penalty and those received by way of Duty, stating the number and title of the suit and the name of the party from whom such monies were received, and the date, if any, and description of the document, for the purpose of identifying the same, and the Court shall pay over the said monies to such Collector or to such person as he may appoint to receive the same. And such Collector or other proper authority shall, upon the production of the Deed, Instrument, or Writing, with the endorsement hereinbefore mentioned, cause it to be Stamped thereon with a Stamp of the amount paid into Court on account of such Duty. All the provisions hereinbefore contained as to the mitigation or payment of penalties paid to the Collector shall be applicable to penalties paid into Court.

No unstamped or insufficiently stamped Deed &c. to be stamped except as aforesaid.

Sixth.—No Deed, Instrument, or Writing executed on unstamped or insufficiently Stamped paper shall be Stamped at any time after the execution thereof, except as aforesaid.

Cost of transmitting Deed &c. to be Stamped. by whom to be paid.

Seventh.—The cost of transmitting all Deeds, Instruments, and Writings required to be Stamped under this Section, and the cost of registering the same at the Post Office for transmission, shall, in all cases, be borne by the party applying to have such Deeds, Instruments, and Writings Stamped.

Government not responsible for loss or nage to Deed, &c.

Eighth.—The Government shall not be responsible for any loss or damage which may occur in respect of any Deed, Instrument, or Writing entrusted to the Collectors of Stamp Revenue, and no person employed by the Government in the Stamp Department shall be responsible for any such loss or damage, unless that person shall wilfully, fraudulently, or by gross negligence, cause such loss or

Provisions of this Section not to extend to Bills of Exchange, &c. drawn in India.

But no part of this Section shall extend to Bills of Exchange or other forms of orders for money drawn within the British Territories in India, or to Receipts for money.

What sum recoverable under a Writing bearing an optional Stamp.

XIV. No larger sum shall be recoverable in any Court of Justice by reason of any Deed, Instrument, or Writing for which an optional Stamp is indicated to be proper by the said Schedule, than

the largest sum for which, if specially stated in a Deed, Instrument, or Writing of the same denomination, the Stamp actually used under the option so given, would be of sufficient value. And no such Deed, Instrument, or Writing shall be held by any Court of Justice to be valid in respect to any sum of money larger than that for which the Stamp on the said Deed, Instrument, or Writing would be sufficient.

Expense of providing Receipt Stamps, &c.

XV. Every person receiving payment of any sum of money, the Receipt for which under this Act requires a Stamp, shall, if required, give a Receipt bearing the proper Stamp indicated by this Act, and shall bear the expense of furnishing the same, and in case of refusal shall be liable to a penalty not exceeding one hundred Rupees. The expense of providing the Stamp of all Bills of Exchange, Letters of Credit, Drafts, Cheques on Bankers or others, Promissory Notes, and other Orders and Obligations for the payment of money made or drawn in the British Territories in India (not being Bonds or Instruments or Writings bearing the attestation of one or more witnesses), shall be borne by the person making or drawing the same.

Stamp Duty payable under Schedule B.

XVI. Except within the local limits of the jurisdiction of the Courts established by Royal Charter, no Instrument or Writing of any of the kinds specified as requiring Stamps in the Schedule B. annexed to this Act, shall be filed, exhibited, or recorded in any Court of Justice or Office with respect to which Court or Office such Instrument or Writing is required by Schedule B. to have a Stamp, or shall be received or furnished by any public Officer, unless such Instrument or Writing be upon a Stamp prescribed as aforesaid by the Governor-General of India in Council, and of a value not less than that indicated to be proper for it by the said Schedule B.

Effect of provision contained in the Schedules.

XVII. Every provision contained in the Schedules annexed to this Act shall be of the same force as if it were contained in the body of the Act.

Governor-General in Council may lower rates of Stamp Duty in any District, or altogether exempt the same, &c.

XVIII. The Governor-General in Council may, by an order to be published in the Calcutta Gazette, direct that in any District such lower rates of Stamp Duty as he shall prescribe shall be taken on all or any of the Deeds, Instruments, or Writ-

ings specified in the Schedules to this Act, or altogether exempt the same, and in like manner, as occasion shall require, cancel or vary such order to the extent of the powers hereby given. Provided that this Section shall not extend to Bills of Exchange or other Instruments classed as Bills of Exchange.

Proviso.

XIX. The local Executive Government may appoint Officers for the collection of the Stamp Revenue, and may prescribe the duties of such Officers and may assign Districts to such Officers, and may license or cause to be licensed vendors of Stamps, and may direct how and under what conditions Stamps may be supplied to such vendors for sale.

Appointment of Officers for collection of Revenue.

Licensed Stamp vendors.

XX. Every vendor of Stamps shall at all times have his license, together with the Schedules annexed to this Act, in the vernacular language of the District, stuck up in a conspicuous situation in the place where he sells the Stamps, on pain of a fine not exceeding fifty Rupees.

Licenses and Schedules to be stuck up in Stamp vendor's shop.

XXI. Every vendor of Stamps shall write on some convenient part of each Stamp which he issues, except Stamps used for Receipts or for Bills of Exchange, Promissory Notes, Drafts, or other Orders for money, Banker's agreements for loans, or Bills of Lading, the date of issue, the name of the person to whom it is issued, and his own ordinary signature, on pain of a fine not exceeding one hundred Rupees.

Endorsement by vendor on Stamp when issued.

XXII. Any vendor who shall knowingly write a false date or name on the back of any Stamp, shall be punished by a fine not exceeding five hundred Rupees, or imprisonment not exceeding three months, or both.

Penalty for false endorsement.

XXIII. Every vendor of Stamps shall, without delay, deliver any Stamp which he has in his possession for sale on demand, by any person tendering the value in any currency which the vendor is duly authorized to receive in payment for Stamps, on pain of a fine not exceeding one hundred Rupees.

Delay by Stamp vendor in issuing Stamps.

XXIV. Any vendor who demands or accepts for any Stamp

Stamp vendor accepting any consideration other than that authorized.

any consideration other than the value thereof in such currency as he is duly authorized to receive in payment for Stamps, shall be punished by a fine not exceeding one hundred Rupees.

XXV. Any vendor who demands or accepts for any Stamp any consideration exceeding the value of such Stamp, shall be punished by imprisonment for a period not exceeding six months, or by a fine not exceeding ten times the value so demanded or accepted, or by both, and it shall be in the discretion of the Court or Officer passing the sentence to direct the value of the excess to be refunded out of such fine to any person from whom such excessive consideration may have been accepted.

Stamp vendor accepting any consideration exceeding the value of the Stamp.

XXVI. Any vendor or other person who, after any period which may have been appointed by the Governor-General in Council for the commencement of the use of new Stamps, sells any old Stamps, shall be punished by a fine not exceeding one hundred Rupees.

Illegal sale of old Stamps.

XXVII. If any vendor refuses or omits to render any accounts required by the provisions of any bond he may have entered into, or to permit the Collector of the Stamp Revenue of the District or any Officer duly authorized by him to inspect his accounts, or to examine the store of Stamps in his possession, it shall be lawful for the said Collector to proceed against the said vendor for the recovery of the value of the balance of Stamps standing against the vendor in the books of the said Collector, or for the recovery of the balance of money standing against the said vendor in the said books, in the same manner as Collectors of Land Revenue are authorized by law to proceed against persons owing Revenue or Rent to Government.

Stamp vendor refusing or omitting to render accounts.

XXVIII. Any vendor who, upon the determination or resignation of his license, does not, within such reasonable time as shall have been prescribed by the Collector of the Stamp Revenue of the District, make over to some Officer duly authorized to receive them, accounts of all his transactions in relation to Stamps, kept according to the provisions of any bond he may have entered into, together with any Stamps remaining, or which ought to be re-

Delivery of Stamps, &c., by vendor on determination of his license.

maining in his hands, and any balance of cash which may be due from him to Government on the above-mentioned accounts, shall be liable to a fine not exceeding five hundred Rupees; provided always that no vendor shall, by the payment of such fine, be exempt from any punishment provided by law for any embezzlement of which he may have been guilty, or from such proceedings as by Section XXVII. of this Act the Collector of the Stamp Revenue of the District is empowered to adopt for the recovery of the value of any Stamps or balance of cash remaining in the hands of or standing against such vendor.

On death of Stamp vendor unsold Stamps &c. to be delivered to a duly authorized Officer.

XXIX. Upon the death of any vendor, his executors or administrators, or in case there be no executor or administrator any other person in possession of his effects, shall, upon demand being made by the Collector of Stamp Revenue or any Officer duly authorized by him, make over within a reasonable time to such Collector or Officer any Stamps which the deceased vendor may have received and not have issued at the time of his death, and any accounts of the transactions of the deceased vendor in relation to Stamps which may have been kept according to the provisions of any bond such vendor may have entered into, of which Stamps and accounts such executor, administrator, or other person may have the possession, or be able to obtain the possession, on pain of a fine not exceeding five hundred Rupees.

Proceedings against sureties of Stamp vendor.

XXX. In any of the cases specified in the preceding Sections the Collector of the Stamp Revenue of the District may call upon the surety or sureties of the vendor, or any of them, to make good the value of the balance of Stamps standing against the vendor in the books of the said Collector, or the balance of money standing against the vendor in the books of the said Collector, and on his or their failure to do so, may proceed against all or any of them for the recovery of the value of the balance of Stamps or for the recovery of the balance of money as aforesaid, in the same manner as Collectors of Land Revenue are authorized by law to proceed against the sureties of persons owing Revenue or Rent to Government.

XXXI. No person not being a licensed vendor of Stamps

Unlicensed sale of Stamps.

duly appointed, shall sell any Stamp unless it has been in an authorized manner obtained for use and not for sale, under pain of a fine not exceeding one hundred Rupees; provided that nothing in this Section shall be held to apply to any adhesive Stamp.

Renewal of damaged or spoiled Stamps.

XXXII. *First.*—If any stamped paper, parchment, vellum, or the like, after having been obtained in the regular manner, shall have become damaged, spoiled, or unfit for use, either by any accident happening to the same, or because of error in the drawing up or copying any Instrument or Writing thereupon, which being discovered before such Instrument or Writing may be finally signed and executed, renders the same of no avail, or when by reason of the death or refusal of the party or parties whose signature may be necessary to effect the transaction intended by such Instrument or Writing it remains incomplete and of no avail, or when by the refusal of any office or trust that may be granted by an Instrument of Writing it has failed of the purpose intended, or in the case of Promissory Notes, Bills of Exchange, or the like, if by non-delivery to the payee or person acting on his behalf, or from other cause, the same are never brought to use, and in the case of Bills of Exchange if they shall not have been presented for acceptance; in all such cases it shall be competent to the Collector of the Stamp Revenue of the District duly appointed as above provided, upon delivery being made of the Stamped paper, parchment, vellum, or the like so damaged, spoiled, or rendered unfit for use, to cause similar Stamps or Stamp of equal value to be delivered as above provided to the owner of the article or articles so damaged, spoiled, or rendered unfit for use, or to his representative, upon payment of the value of the paper, parchment, vellum, or other material on which the new Stamp may be impressed But the rule contained in this Section shall not extend to Bills of Exchange drawn in sets, of which any one of the set may have been delivered to the payee.

Application for renewal.

Second.—The owner of any Stamp which may be damaged, spoiled, or rendered unfit for use as aforesaid, shall prefer his application to the Collector of Stamp Revenue of the District in which he may have purchased it, and if the Collector be of opinion that the application ought

to be complied with, he shall deliver or cause to be delivered, subject to the provisions of this Act, to the party or his representative, a Stamp similar to that which has been damaged, spoiled, or rendered unfit for use. Provided that the application be made within one year of the period when the Stamp may have become damaged, spoiled, or rendered unfit for use.

Fraudulently counterfeiting or uttering Stamps.

XXXIII. Any person who fraudulently counterfeits any Stamp, or who alters any Stamp with the intention that it shall pass for a Stamp of greater value, or makes or uses any die for either of the above purposes, or who fraudulently issues or exposes for sale any counterfeit Stamp or any Stamp altered as above described, or who fraudulently uses any counterfeit Stamp or any Stamp altered as aforesaid, shall be punished by imprisonment with or without hard labor for a term not exceeding four years or by transportation for a term not exceeding seven years.

Stamps on certain affidavits.

XXXIV. No Justice of the Peace or any Officer, before whom an affidavit not made for the immediate purpose of being filed, read, or used in any Court of Law may be taken, shall receive or attest such affidavit unless it be written on a Stamp of not less than the value prescribed in Schedule A. annexed to this Act.

Conveyance to state truly the amount of the purchase money.

XXXV. From the time when this Act shall come into force, in all cases of the sale of any lands, annuities, or other property, real or personal, movable, or immovable, or of any right, title, interest, or claim in any such property, when a Duty is imposed by this Act on the conveyance thereof, the full purchase or consideration money directly or indirectly paid or secured or agreed to be paid for the same, shall be truly expressed and set forth in words at length in the principal Deed, Instrument, or Writing, whereby the property sold shall be conveyed to or vested in the purchaser or in any other person; and if the full purchase or consideration money shall not be fully and truly expressed and set forth in the manner above directed, the purchaser and seller shall each forfeit a sum not exceeding five hundred Rupees, and be charged with the payment of five times the amount of the excess of Duty which would have been payable for the said Deed, Instrument, or Writing in respect of the full purchase or consideration money, if the same had been duly ex-

pressed in the said Deed, Instrument, or Writing beyond the amount of Duty actually paid for the same.

Penalty if person employed to prepare a Conveyance inserts a less sum than the true purchase money.

XXXVI. If any person shall knowingly and wilfully insert or set forth in such Deed, Instrument, or Writing, any less amount than the full and true purchase or consideration money directly or indirectly paid or secured or agreed to be paid for the same, he shall incur the penalties prescribed in the last preceding Section.

Prosecution only to be by Collector of Stamp Revenue, &c.

XXXVII. No person shall be proceeded against for any offence affecting the Public Revenue under this Act except at the suit or prosecution of the Collector of the Stamp Revenue acting under the orders of the Board of Revenue, or other Authority charged by Government with the duty of carrying out the provisions of this Act, or other Public Officer duly authorized by Government.

Offences cognizable by Magistrate or Justice of the Peace.

XXXVIII. Every offence punishable by this Act, except the offences punishable by Section XXXIII. shall be tried by any Magistrate or Justice of the Peace.

Offences cognizable by other tribunals.

XXXIX. The offences punishable by Section XXXIII. shall be tried by the Court having jurisdiction over the same, whether it be the Supreme Court of Judicature or the Sessions Judge or other Officer.

Imprisonment in case of non-payment of fine.

XL. If any person sentenced to any fine under the provisions of this Act, shall not pay the fine to which he shall be sentenced, it shall be lawful for the Officer or Court who tried him, to issue his or their warrant to levy the amount by distress and sale of the goods and chattels of the party fined, or to sentence the offender to imprisonment until the payment of the fine, or the expiration of a term to be assigned, not exceeding three months, whichever shall first take place.

Interpretation.

"Stamp."

"Bill of Exchange."

"Value."

XLI. Throughout this Act and the Schedules annexed to it, the word "Stamp," execept when the contrary shall appear from the context, is used to signify a stamped piece of paper or other stamped material for writing on; the term "Bill of Exchange" shall include a Hoondee or any other Instrument of a like nature; and by the "value" of a Stamp is meant a sum indicated by words

or figures duly impressed upon such piece of paper or other materials.

Commencement of Act.

XLII. This Act shall come into force from the 1st of October 1860.

SCHEDULE A.

Specifying Deeds, Instruments, and Writings which require Stamps, and indicating the proper Stamps for those Deeds, Instruments, and Writings.

	PROPER STAMPS.
1. Agreement, Ikrar, or any Minute or Memorandum of an Agreement; such Agreement, Minute, or Memorandum not being otherwise provided for in this Schedule, whether the same be only evidence of a contract or obligatory upon the party—	
If relating to matters capable of valuation, and with the value stated ..	The same Stamp as for a Bond for the payment of the amount of the value stated.
If for an annual or any periodical payment	The same Stamp as for a Bond for the amount of ten years' payment, or of the total sum secured if less.
If for the performance of any legal act, or for a purpose not restricted to, nor specifying any amount ...	An optional Stamp—See Section XIV. of the Act.
Agreements for loans by Bankers made for short periods upon the deposit of Notes or other Securities of the Government of India, with or without a deposit of the Acceptance or Promissory Note of the borrower, provided that no such agreement is drawn in the form of a Bond or of a Bill of Exchange or Promissory Note or in any such way as would render it a negotiable Instrument passing by endorsement, for whatever amount, in case such loan shall not exceed one month, the uniform Stamp of ...	2 Rupees.
And in case such loan is for a period exceeding one month or not exceeding three months ...	4 Rupees.
EXEMPTIONS.	
Agreement for the hire of any laborer, Artificer, Manufacturer, or menial Servant.	
Agreement, Memorandum, or Letter made for or relating to the sale of any Goods, Wares, or Merchandize.	

	PROPER STAMPS.
2. Affidavits and solemn declarations not made for the immediate purpose of being filed, read, or used in any Court of Law, per sheet ...	1 Rupee.
3. Assignments, if not of the nature specified under the heads of Conveyances and Settlements, nor specially exempted—	
In cases where the Assignment is of any interest secured by an original Deed or Instrument on a Stamp of a value less than eight Rupees ...	The same Stamp as the original Deed.
In other cases ...	8 Rupees.

EXEMPTION.

All transfers by mere endorsement of Bills of Exchange, Promissory Notes, and other negotiable Instruments; and of Bills of Lading; and transfers by Assignment of Policies of Assurance.

	Rs.	As.
4. Bills of Exchange, Letters of Credit, Drafts, Cheques on Bankers or others, Promissory Notes, Hoondees, and other orders and obligations for the payment of money, not being Bonds, or Instruments, or Writings, bearing the attestation of one or more witnesses—		
If payable to the bearer or to order on demand, and bearing the date on which the draft or order is made, except Bank Notes payable to bearer on demand ..	0	1
If the sum payable does not exceed 50 Rupees ..	0	0½

If payable at any period not exceeding one year after date or sight, then—	Inland and Foreign if drawn singly.		Foreign if drawn in sets of three, each to be Stamped.	
	Rs.	As.	Rs.	As.
Bills not exceeding 100 Rs.	0	1	0	1
Above 100 and do. 250 ,,	0	3	0	1
,, 250 do. 500 ,,	0	6	0	2
,, 500 do. 1,000 ,,	0	12	0	4
,, 1000 do. 2,500 ,,	1	8	0	8
,, 2,500 do. 5,000 ,,	3	0	1	0
,, 5,000 do. 10,000 ,,	6	0	2	0
,, 10,000 do. 20,000 ,,	12	0	4	0
,, 20,000 do. 30,000 ,,	18	0	6	0
,, 3,0000 and upwards,	24	0	8	0

PROPER STAMPS.

5. Any of the Instruments described in No. 4, payable at a period exceeding one year after date or sight. — The same Stamp as for Bonds for the payment of the same amount.

6. Bills of Lading of or for any Goods, Merchandize, or effects to be exported. ... — *Rs.* 0 *As.* 4 for each part of every set.

7. Bills of Sale—See Conveyance and Mortgage.

8. All Bonds or other obligations for the payment of any definite or certain sum of money not otherwise charged for or expressly exempted from the payment of Stamp Duty in this Schedule.

				Rupees.	*Annas.*
If for any sum not exceeding			50 Rs.	0	4
Above 50 Rs. & not exceeding			... 100 ,,	0	8
,,	100 ,,	ditto	200 ,,	1	0
,,	200 ,,	ditto	300 ,,	2	0
,,	300 ,,	ditto	500 ,,	4	0
,,	500 ,,	ditto	700 ,,	5	0
,,	700 ,,	ditto	1,000 ,,	6	0
,,	1,000 ,,	ditto	2,000 ,,	10	0
,,	2,000 ,,	ditto	3,000 ,,	15	0
,,	3,000 ,,	ditto	5,000 ,,	25	0
,,	5,000 ,,	ditto	10,000 ,,	35	0
,,	10,000 ,,	ditto	20,000 ,,	60	0
,,	20,000 ,,	ditto	40,000 ,,	100	0
,,	40,000 ,,	ditto	60,000 ,,	125	0
,,	60,000 ,,	ditto	60,000 ,,	150	0
,,	80,000 ,,	ditto	1,00,000 ,,	200	0
And for every further part of a lac,				100 Rupees.	
And for every further full lac, ..				200 ,,	

9. Bonds or other obligations, concerning respondentia and bottomry, .. — The same Stamp as for a common money Bond for the like amount.

10. Bonds or other obligations given as security for the transfer of Government Securities or Stock of any public Company or for the delivery or accounting for any matter or thing capable of being valued. .. — The same Stamp as for a Bond for the payment of the amount engaged to be paid or accounted for, or of the value of the thing to be delivered or transferred.

11. Bonds or other obligations for an annual or any periodical payment, not being interest upon any principal sum secured by the Bond whether for a fixed or for an indefinite period, — The same Stamp as for a Bond for the payment of a sum equal to ten times the yearly payment, or of the total sum secured, if less.

12. Bonds or other obligations when the amount of the money to be secured is not specified, ... — An optional Stamp—See Section XIV of the Act.

	PROPER STAMPS.
When the amount is limited to a certain sum,	The same Stamp as for a Bond for the payment of such limited sum.
13. Bonds or other obligations for the due execution of an office or work, taken by individuals, and all other Bonds not otherwise specially provided for,	An optional Stamp—See Section XIV. of the Act.
14. Bonds or other obligations taken as Colletaral security with some Deed or Instrument executed on the Stamp prescribed for Conveyances or Money Bonds, or as security for the performance of any other contract, covenant, or agreement not being for the payment of money, the transfer of property, or the satisfaction of any pecuniary demand, ..	The same Stamp as the Deed, Instrument, Contract, Covenant, or Agreement, if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.
15. Security Bonds or other obligations which may be taken by or by order of any Court, Collector, or other Judicial or Revenue Authority, also Razeenamahs, Soolohnamahs, and Rufanamahs, filed in any suit pending in a Court of Justice, ...	To be charged as specified and prescribed in Schedule B.
16. Charter-parties, or any agreement or contract for the Charter of any Sea-going Ship or Vessel, or any memorandum, letter, or other writing between the Captain, Master, or Owner of any such Ship or Vessel, and any other person, for or relating to the freight or conveyance of any money, goods, or effects on board of such Ship or Vessel,	2 Rupees.
17. Composition Deeds or other Instruments of composition between a debtor or debtors and his, her, or their creditors, ...	8 Rupees.
18. Contracts and Deeds, if not otherwise specially provided for, ...	As agreements.
19. Conveyances or Deeds or Instruments of any kind or description, whatsoever, executed for the sale or transfer, for a consideration, of any lands, tenements, rents, annuities, or other property, real or personal, movable or immovable, or of any right, title, or claim to or upon, or interest in, any lands, houses, rents, annuities, or other property, that is to say, for or in respect of the principal or only Deed, Instrument, or Writing whereby the	

				Proper Stamps.	
				Rs.	*As.*
property sold shall be conveyed to or otherwise vested in the purchaser or purchasers, or to some other person by his, her, or other directions.					
When the purchase or consideration money therein expressed or denoted shall not exceed one hundred Rupees. ...				1	0
	Rs.		Rs.		
Above	100	& not exceeding	200	2	0
,,	400	ditto	200	4	0
,,	400	ditto	800	8	0
,,	800	ditto	1,200	12	0
,,	1,200	ditto	2,000	20	0
,,	1,000	ditto	3,000	30	0
,,	3,000	ditto	4,000	40	0
,,	4,000	ditto	5,000	50	0
,,	5,000	ditto	7,500	75	0
,,	7,500	ditto	10,000	100	0
,,	10,000	ditto	20,000	150	0
,,	20,000	ditto	40,000	200	0
,,	40,000	ditto	60,000	300	0
,,	60,000	ditto	80,000	400	0
,,	80,000	ditto	100,000	500	0
And for every further,			50,000	200	0
Or part thereof, ...			...	100	0
Conveyances when the consideration is annuity, ...				The same Stamp as for a Conveyance when the purchase money is equal to ten times the annuity.	
Conveyances of any kind whatever not otherwise charged, if the value of the property conveyed or of the consideration for the Conveyance be stated or appear on the face of the Conveyance, ...				The same Duty as would be charged if a consideration in money equal to such value were expressed in the Conveyance as the consideration thereof.	
If no value appear on the face of the Conveyance, ...				Fifty Rupees.	

NOTE.—When of several Deeds, Instruments, or Writings, a doubt shall arise which is the principal, it shall be lawful for the parties to determine for themselves which shall be so deemed. In all cases, however, where there are more Deeds than one, every other Deed than the principal requires the same Stamp as the principal Deed, if of value not exceeding eight Rupees (which shall be the maximum Stamp for collateral Deeds), and all such collateral Deeds shall specify by their contents which other is the principal Deed by which

	PROPER STAMPS.
the conveyance has been effected, certifying that it is executed on the proper Stamp.	
Transfers of the shares of any Banking Corporation or any Joint Stock Company, by endorsement or otherwise, when the fully nominal value of the share so transferred does not exceed 100 Rupees per share. ...	*Rupees.* 0 *Annas.* 4
When the value exceeds 100 Rupees and not 200 Rupees. ...	0 8
When the value exceeds 200 Rupees and not 300 Rupees. ...	0 12
When the value exceeds 300 Rupees and not 400 Rupees. ...	1 0
And for every additional value of 100 Rs. a further Duty of 4 annas, and for the transfer of every quarter or half of any such share, a corresponding rate of Duty.	
EXEMPTION.	
All transfers of subscription to any of the Government Loans, or other Government Securities.	
20. CO-PARTNERSHIP. — Deeds or other Instruments of— ..	8 0
21. COPIES.—Copy of Extract of any Deed or Instrument attested to be a true copy or extract and furnished for the purpose of being given in evidence for the recovery of any sum of money, property, interest, or right secured thereby. ...	The same Duty as prescribed for the original Deed by this Act.
22. Where such copy may be made for the security or use of any person not being a party to, or taking any benefit or interest immediately under the agreement, contract, bond, deed, or other instrument, per sheet ...	*Rupees.* 0 *Annas.* 8
23. Copy or Extract of any Deed, Instrument, Schedule, Receipt, or other matter annexed to any agreement, contract, bond, deed, or other instrument, per sheet ...	0 8
24. Copies authenticated of any records, letters, accounts, statements, reports, or other writings, furnished to individuals from any of the Public Offices of Government, per sheet ...	0 8
For copies of Revenue and Judicial Papers to be given from the Courts of Justice, Revenue Kutcherries, &c. ...	See Schedule (B).

	Proper Stamps.
Exemption. Copies of papers which Public Officers are directed by any law or general regulation to make, require, or furnish, for which Stamps are not specially required by this Schedule.	
25. Deeds of gift and dower whether to take effect on the instant, or at a future period, determinate or indeterminate ...	The same Stamp as for Conveyances.
26. Deeds of any kind not otherwise particularized in this Schedule ..,	As Agreements.
27. Exchanges.—Any Deed or Instrument whereby any real property shall be conveyed or surrendered in exchange for other property— ...	The same Stamp as for Conveyances.
28. Engagements to cultivate, produce, provide, or derive any article of commerce in consideration of advance made.	Shall be charged on the amount advanced at the rate of Bonds.
29. Leases.—Any lease made in perpetuity, or for a term of years, or period determinable within one or more lives, or otherwise contingent, in consideration of a sum of money paid in the way of premium, fine, or the like, if without rent.	The same Stamp as for a Conveyance or Deed of Sale for a sum of the amount of such consideration.

30. Any lease of lands, houses, or other real property at a rent, without any payment of any sum of money by way of fine or premium—

	When the lease is for a period not exceeding one year.		When the lease is for a period not exceeding one year.	
	Rs.	As.	Rs.	As.
Where the rent calculated for a whole year shall not exceed 24 Rupees, ...	0	4	0	8
Exceeding 24 but not exceeding 50	0	8	0	12
,, 50 ,, 100	0	12	1	0
,, 100 ,, 250	1	0	2	0
,, 250 ,, 500	2	0	4	0
,, 500 ,, 1,000	4	0	8	0
,, 1,000 ,, 2,000	8	0	16	0
,, 2,000 ,, 4,000	16	0	32	0
,, 4,000 ,, 6,000	24	0	48	0
,, 6,000 ,, 10,000	40	0	80	0
,, 10,000 ,, 25,000	100	0	200	0
,, 25,000 ,, 50,000	200	0	400	0
And for every additional 25,000, or part thereof,	100	0	200	0

31. Any lease of lands, houses, or other real property at a rent for an indefinite term, and without any payment of any sum of money by way of fine or premium. ... .. — The same Stamp as for a lease for a period not exceeding one year.

	PROPER STAMPS.
32. Any Lease of lands, houses, or other real property, stipulating for a rent, and granted in consideration of a fine or premium	A Stamp of value equal to the joint values of the Stamps for a Conveyance in consideration of the fine, and a lease for the rent.
33. The counterpart of any Lease, or a Kubooleut or the like ...	The same Stamp as for the lease.

EXEMPTION.

All Leases, Pottahs, and Kubooleut, executed and exchanged with ryots and other actual cultivators of the soil, provided that no fine or premium be paid and no Security Bonds executed as part of the same transactions.

(*For Madras and Bombay.*)

Every Lease and its counterpart (Pottah and Kubooleut) or other engagement contracted between landlord and tenant, relative to lands subject to the payment of Revenue to Government.

	Rupees.	*Annas.*
34. Letters, or powers of Attorney, Mooktarnamahs, &c., not being of the kinds provided for in Schedule B—		
For the performance of any special act or acts, or of the acts connected with any one particular suit, case, or transaction	0	8
General, that is not restricted as above ...	4	0
Warrant of Attorney to confess judgment, or Cognovit, unless taken as collateral security for the payment of any sum of money secured by another Instrument stamped with an advalorem Stamp under this Act, ...	The same Stamp as for a Bond.	
If given as such collateral security as above mentioned, ...	Five Rupees.	
NOTE.—For Wakalutnamahs, Mooktarnamahs, and other powers, required to be filed for the conduct of suits, regular or summary, or proceedings of any kind pending before the Courts of Judicature or before the Revenue Authorities	See Schedule (B.)	
35. Letters of license from creditors to debtors, ...	8	0

	PROPER STAMPS.
36. MORTGAGES.—Any deed of mortgage or of conditional sale with or without possession given, of or for any lands, estates, or property, real or personal, intended as a security for money due or to be lent thereupon; also any deed or contract accompanied with a deposit of title deeds to any property, where the same may be made as security for payment of money due or lent at the time, ..	The same Stamp as for a Bond for the payment of the amount due or lent.
37. Re-conveyance of mortgaged property, ..	The Stamp as for Assignments.
38. Release of an equity of redemption, ...	The same Stamp as for Conveyances.
39. Deeds of mortgage, or the like, given as security for the transfer of Government Securities or for the payment of an annuity for a fixed period, or for the delivery at a future date of any matter or thing capable of being valued, ..	The same Stamp as for a Bond for the payment of the total amount assured, or for the *bonâ fide* value.
40. Deeds of mortgage given for the security of annuities for an indefinite period, such as life annuities,	The same Stamp as for ten times the annual payment.
Where it may be stipulated that the amount secured by such mortgage shall not exceed a certain sum, ...	The same Stamp as for deeds of mortgage of such limited sum.
Where the total amount secured by the mortgage is unlimited, ..	An optional Stamp—See Section XIV. of the Act.
Where a Bond may have been already taken for the amount secured, or where from any other cause the mortgage shall act merely as a collateral security to some other transaction in which an Instrument requiring a Stamp has been executed, ...	The same Stamp as for the Bond or other Instrument, if of value not exceeding eight Rupees; otherwise a Stamp of eight Rupees.
Where there are more Deeds than one required to execute the mortgage in the manner desired by the parties, then for every other Deed than the principal Deed, provided the original Deed has been duly stamped, ..	The same Stamp as for the principal Deeds, if of value not exceeding eight Rupees; in other cases a Stamp of eight Rupees.
41. Mortgages, assignments, or acknowledgments granted for loans or advances made on the deposit of Government Securities, bullion, plate, jewels, or other goods, ...	The same Stamp as for Promissory Notes.
42. Partitions by private agreement or made by Public Officers of estates or property, real or personal, or in the	

	PROPER STAMPS.	
	Rupees.	*Annas.*
nature of separation of brotherhood, as amongst Hindoos, for every such sharer's copy of the deed of partition—		
When the sharer's portion does not exceed one hundred Rupees in value....	0	8
Exceeding 100 Rs. & not exceeding 200 Rs,.	1	0
,, 200 ,, ditto 400 ,,	2	0
,, 400 ,, ditto 600 ,,	4	0
,, 600 ,, ditto 800 ,,	6	0
,, 800 ,, ditto 1,000 ,,	8	0
And for every additional four hundred Rupees, or part thereof, ..	2	0
When the subject of the partition, consisting either wholly or in part of other property than money, any money, not being part of such subject, is paid, or agreed to be paid for the purpose of compensating any difference from just proportion in the partition actually made of that subject, ...	A Stamp of value equal to the joint values of the Stamp which would have been required had the subject of partition been actually divided with the just proportion, and of the Stamp for a Conveyance or Deed of Sale for a sum equal to the amount so paid, or agreed to be paid, for the purpose of compensating the difference therefrom.	
43 Policy of Assurance or Insurance, or other Instrument, by whatever name the same shall be called, whereby an Insurance shall be made upon any life or lives, or upon any event depending upon any life or lives—		
For every sum of one thousand Rupees and also for each and every fractional part of one thousand Rupees, ...	*Rupees.* 0	*Annas.* 8
44. Policy of Insuarnce of any ship, vessel, sloop, lighter, boat, or the like, or of any goods or property on board, or upon the freight of any ship, vessel, sloop, lighter, boat, or the like, or upon any other interest relating thereto, or upon any voyage where the premium shall not exceed two per centum on the sum insured, if the whole sum insured shall not exceed one thousand Rupees, ...	0	8
If the sum insured exceed one thousand Rupees, then for every one thousand Rupees, and also for any fractional part of one thousand Rupees whereof the same shall consist, ..	0	8

	Proper Stamps.	
	Rupees.	*Annas.*
Where the premium shall exceed two per cent. on the sum insured, if the whole sum shall not exceed one thousand Rupees, ..	1	0
If the sum insured exceeds one thousand Rupees, then for every one thousand Rupees and also for any fractional part of one thousand Rupees whereof the same shall consist, ..	1	0
Promissory Notes ...	See Bills of Exchange.	
45. Promissory Notes for the payment of any sum by instalments, that is Kistbundies, or for the payment of several sums at different dates, so that the whole of the money to be paid shall be definite and certain, ...	The same Stamp as for a Bond for the payment of the whole amount.	
46. Protest of any Bill of Exchange or Promissory Note for any sum of money, or any Notarial Act not otherwise charged or exempted in this Schedule, ..	*Rupees.* 2	*Annas.* 0
47. Receipts or discharges given for the payment of money or in acquittal of a debt paid in money or otherwise, when the sum received, discharged, or acquitted, amounts to ten Rupees and does not exceed fifty Rupees, ..	0	½
If the sum exceeds fifty Rupees. ..	0	1

EXEMPTIONS.

(For the Presidency of Bengal.)

Receipts or discharges with respect to the rent of land-paying Revenue to Government, granted to any ryot or other actual cultivator for the rent of land tilled by him.

(For the Presidencies of Madras and Bombay.)

Receipts or discharges with respect to the rent of land paying Revenue to Government granted to any tenant for the rent paid by him.

GENERAL EXEMPTIONS.

Receipts or discharges written upon Promissory Notes, Bills of Exchange, Drafts, or Orders for the payment of money, duly stamped.

Letters sent by the post acknowledging the arrival of any Promissory Notes, Bills of Exchange, or other securities for money.

	PROPER STAMPS.
Receipts or discharges written upon or contained in any Mortgage Deed, or other security or any Deed of Conveyance, Settlement, Personal Bond, or other Instrument duly stamped, acknowledging the receipt of the consideration money therein expressed or the receipt of any principal money, interest, or annuity thereby charged.	
Receipts given for money deposited in any Bank, or in the hands of any Banker, to be accounted for, whether with interest or not, provided the same be not expressed to be received of or by the hands of any other than the person to whom the same is to be accounted for. Provided always that this exemption shall not extend to receipts or acknowledgments for sums paid or deposited for or upon letters of allotment of shares, in respect of calls upon any scrip or shares of or in any Joint Stock or other Company, or proposed or intended Company, which such last mentioned receipts or acknowledgments, by whomsoever given, shall be liable to the Duty charged upon receipts,	
48. Schedules referred to in any Agreement, Lease, Bond, Deed, or other Instrument, for every thousand words, or part thereof, ...	*Rupees.* 10 *Annas.* 0
49. Settlements, Marriage Settlements, &c., namely any Deed or Instrument whereby any sum or sums of money, or any Government Securities, or other property, real or personal, shall be settled, or agreed to be settled, upon or for the benefit of any person or persons, in any manner whatsoever, ...	The same Stamp as for a Bond for the payment of the amount or value settled or agreed to be settled; or in cases in which the value shall be indeterminate, an optional Stamp—See Section XIV. of the Act.
EXEMPTION.	
Wills, Testaments, and the like, together with Deeds merely declaratory of trust or appointment or apportionment or otherwise, in execution of powers or pursuant to any previous Settlement, Deed, or Will.	
GENERAL EXEMPTION AND RULE.	
Deeds, Instruments, and Writings of any kind, in which Government, or any Board, Commission, Court, or Public Officer may, in a public capacity, be a party, do not require Stamps.	

	Proper Stamps.
NOTE.—The foregoing exemption does not extend to Deeds, Instruments, and Writings executed to or by the Court of Wards, Local Agents, or Officers acting under their authority, or to or by any Administrator General; neither does it extend to sales made for the recovery of arrears of revenue or rent, or in satisfaction of decrees or orders of Court, in which cases the purchasers shall be required to pay, along with the purchase money, the price of the requisite Stamp, or else provide such Stamp, and shall receive from the Officer conducting the sale a Deed of Sale (Byenamahs) executed on the proper Stamp.	
Any Deed, Instrument, or Writing required by the foregoing Schedule to be Stamped, may be written on one or more Stamps if the value of the Stamps used amounts to the value required by the Schedule.	
Deeds for Securing gifts or dispositions made by previous Settlements, Deeds, or Wills.	

SCHEDULE B.

Referred to in Section XVI. of the Act, containing the Specification of Duties chargeable on Law Papers.

1. Bail or Security Bonds (Hazir or Fial Zamin) whether of specified amount or with a penalty of a specific sum of money or of indefinite amount, when furnished and filed under special order of a Civil Court or of any Revenue Officer exercising Judicial powers. ...	To be charged as Petitions.	
When executed between individuals not by order of Court. ...	To be charged as Bonds—See Schedule (A).	
2. Copies of Judgments and Decrees when passed in any Court below the Sudder Dewanny Adawlut in all regular suits of which the value of the claim amounts to fifty Rupees—per sheet. ...	*Rupees.* 1	*Annas.* 0
When passed in the Sudder Dewanny Adawlut in any regular suit—per sheet,	4	

	PROPER STAMPS.	
	Rupees.	*Annas.*
3. Copies of Revenue and Judicial Proceedings or Orders, or Copies of Accounts, Statements, Reports, or the like filed on record and taken out for use or reference, or when left on proceedings in place of originals withdrawn—per sheet, ...	0	8
And each sheet shall be of a size not exceeding that fixed for copy paper (No. 3 of the Stamp Office) and shall be written on one side thereof only.		
4. Mookhtarnamahs, Wakalutnamahs, and other powers, filed or presented for the conduct of suits, regular or summary, of cases or proceedings of any kind pending before any Civil or Criminal Court or before the Revenue Authorities.—		
When presented to any Sudder Court,	2	0
When presented to any Board of Revenue or Board or Commissioner of Customs, Salt, and Opium, ...	2	0
When presented to any Court, Civil or Criminal, other than the Sudder Court, or to any Collector or other Revenue Officer, ...	0	8
EXEMPTIONS.		
Mookhtarnamahs executed by Officers or Soldiers of the Army.		
Counsel admitted in any case by any Criminal Court to appear on behalf of a prisoner without a written Mookhtarnamah.		
5. Petitions of appeal not being from an order rejecting a plaint or from a decree or order having by any law the force of a decree; petitions or applications presented to any Civil Court, in relation to any matter cognizable by such Court, shall be written upon Stamp Paper of the following value, namely,		
When presented to the Sudder Court,	2	0
When presented to any Court below the Sudder Court, ..	0	8
SPECIAL RULE FOR BENGAL.		
Petitions or applications not falling within any of the Exemptions of this Schedule, presented to the Nizamut Adawlut or to the Board of Revenue or Customs, Salt, and Opium, ...	2	0
Petitions or applications not falling within any of the Exemptions of this Schedule, presented to any other Criminal Court or to any other Revenue Office,	*Rupees.* 0	*Annas.* 8

PROPER STAMPS.

GENERAL EXEMPTIONS.

Petitions or applications presented to any Moonsiff's Court in relation to any suit or case of an amount or value less than fifty Rupees, or to a Collector or Deputy Collector in relation to any suit or case of the same amount or value tried under Act X. of 1859.

Applications for the summons of a witness or other person to attend either to give evidence or to produce a document or in respect of the production or filing of any exhibit.

Petitions of appeal presented to Magistrates against Chowkeedary assessment.

Communications made to Magistrates in regard to Police matters not intended for record.

Petitions to Collectors or Officers making settlements relating to matters connected with the assessment of lands, the ascertainments of rights, or to other matters affecting the settlement of the Government revenue on lands, if presented pending the formation of such settlements.

Petitions to Boards or Commissioners of Revenue relating to the same.

All Petitions, applications, charges, and informations respecting crimes and offences.

Petitions from prisoners, convicts, persons under examination or otherwise in duress, or under restraint of the Court or its Officers.

EXEMPTIONS FOR THE PRESIDENCIES OF MADRAS AND BOMBAY.

No petition or application to the Revenue Authorities need be presented on Stamp Paper, except as prescribed in the Special Rule given at the close of this Schedule with respect to cases that fall within Regulation VI. 1828 of the Bombay Code.

6. PLAINT.—Petition of, in suits and appeals not otherwise provided for, instituted in any Civil Court not within the local limits of the jurisdiction of the Courts established by Royal Charter, for the recovery of any sum of money or to obtain possession of any interest, matter, or thing—

SCALE FOR PLAINTS.

				PROPER STAMPS.	
				Rupees.	*Annas.*
If the amount or value of the property claimed shall not exceed			16 Rs.	1	0
Above Rs.	16	& not exceeding Rs.	32	2	0
,,	32	,,	64	4	0
,,	64	,,	150	8	0
,,	150	,,	300	16	0
,,	300	,,	800	32	3
,,	800	,,	1,600	50	0
,,	1,600	,,	3,000	100	0
,,	3,000	,,	5,000	150	0
,,	5,000	,,	10,000	250	0
,,	10,000	,,	15,000	350	0
,,	15,000	,,	25,000	500	0
,,	25,000	,,	50,000	700	0
,,	50,000	,,	1,00,000	1,000	0
,,	1,00,000	,,		2,000	0

Petitions of plaint in suits instituted in the Courts of Collectors under Act X. of 1859, shall be subject to the foregoing Duties.

NOTE.—(*a*). Within the Presidency of Bengal in suits for lands paying revenue to Government, if forming one entire Mehaul, or a specific portion thereof with a defined jumma, the value shall be assumed in the Ceded and Conquered Provinces, including Cuttack, at the amount of the annual jumma payable to Government on account of the Mehaul or portion thereof as aforesaid; and where the land has been assessed in perpetuity, at three times the amount of the annual jumma.

(*b*). Within the Presidency of Madras, in suits for land paying Revenue to Government, the value of the property shall be assumed at the amount of the annual aggregate produce of the land computed as payable by the dependent Talookdars, Under-Farmers, and Ryots on account of the year in which the suit may be preferred.

(*c*). Within the Presidency of Bombay, in suits for land paying Revenue to Government, the value of property sued for shall be calculated at the amount of the annual assessment.

(*d*) In suits for Lakhiraj, Enam, or rent-free land, the value shall be calculated at eighteen times the aggregate annual rent payable by the Ryots or or other under-tenants of the land.

PROPER STAMPS.

(*e*). In suits instituted for houses, gardens, and other things of value, real or personal, not of the descriptions above specified; as well as for any interest in Malgoozaree land or for any other right or thing not capable of valuation under the above rules, the amount shall be computed according to the estimated selling price, or when no such estimate can be made, at the sum at which the plaintiff shall estimate the value of his suit; and suits for damages or compensation for injury sustained and the like shall be valued at the amount claimed by plaintiff.

(*f*). If an appeal or plaint, which shall have been rejected by the Lower Court on any of the grounds mentioned in Act VIII. of 1859, shall be ordered to be received, or if a suit shall be remanded in appeal for a second decision by the Lower Court, the Appellate Court shall grant to the Appellant a certificate authorizing him to receive back from the Collector the full amount of Stamp Duty paid on the petition of appeal.

7. Razeenamahs, Rufanamahs, Soolunamahs, or the like, that is to say:—

Any written application whereby, or according whereunto, a suit pending in a Civil Court shall be adjusted, or be capable of adjustment, without an award of the presiding Judge or other Officer, } To be charged as in Petitions.

SPECIAL RULE FOR THE PRESIDENCY OF BOMBBAY.

Suits cognizable before Collectors under the operation of Chapter VIII. Regulation XVII. 1827, as modified by Act XVI. of 1838, shall be subject to the same rules in regard to Stamps, as are in force as above for the Courts of Civil Judicature.

GENERAL RULE.—If the subject matter of any plaint, written statement, or petition, cannot be conveniently comprised within one Stamp Paper of the value above prescribed, one or more additional pieces of paper may be used of the value required for Petitions.

NABOB OF THE CARNATIC.

ACT No. XXXVII. OF 1860.

[*Received assent of the G. G. on the* 11*th August*, 1860.

Recites disallowance of Act XVI. of 1859, by the Secy. of State in C. for India and repeals that Act.

An Act to repeal Act XVI. of 1859.

Preamble.

Whereas the Secretary of State in Council for India has, in pursuance of the power vested in him by law, disallowed Act XVI. of 1859, and has signified to the Governor-General of India in Council his disallowance thereof: It is enacted as follows :

Act repealed.

Act XVI. of 1859 is hereby repealed.

NABOB OF THE CARNATIC.

ACT No. XXXVIII. OF 1860.

[*Received assent of the G. G. on the* 11*th August*, 1860.

Recites doubts whether Act XXX. of 1858, Section XIV. &c., applied to certain debts contracted by Prince Azeem Jah Bahadoor and recites the repeal of Act XVI. of 1859, for removing these doubts :—

1, 2. No debt contracted by Prince Azeem Jah Bahadoor, during the minority of the late Nabob, unless *boná fide* contracted for his use to be within recited Act; and in any investigation into such debt (2,) Court may award costs.

3. Declares right of appeal to Her Majesty not affected.

An Act to explain Act XXX. of 1858 (to provide for the administration of the Estate and for the payment of the debts of the late Nabob of the Carnatic.)—

Preamble.

Whereas doubts have arisen whether certain debts contracted by Prince Azeem Jah Bahadoor during the infancy of the late Nabob of the Carnatic were debts or claims within the meaning of Section XIV. or any subsequent Section of Act XXX. of 1858; and whereas it is expedient to remove such doubts as well as other doubts which exist as to the power of the Supreme Court of Judicature at Madras to award costs in investigations under Section XXII. of the said Act, and as to whether cases so investigated are appealable to Her Majesty

in Council; and whereas Act XVI. of 1859 removing such doubts has been repealed; It is declared and enacted as follows:—

Debts contracted by Prince Azeem Jah during the minority of the Nabob.

I. No debt contracted by the said Prince Azeem Jah Bahadoor during the minority of the said late Nabob shall be deemed a debt or claim within the meaning of the said Section XIV. or any subsequent Section of the said Act, unless such debt was incurred by the said Prince Azeem Jah Bahadoor actually and *bonâ fide* on behalf and for the use of the said Nabob.

Power to award costs.

II. Upon any investigation under Section XXII. of the said Act XXX. of 1858, it shall be lawful for the Court, except as otherwise provided by the said Act, to award costs to either party and to cause the same to be levied in the same manner as costs in an ordinary suit.

Appeal to the Queen in Council.

III. It is hereby declared that it was not the intention of the said Act to exclude from appeal to Her Majesty in Council any awards, orders, or decisions of the said Supreme Court made upon any investigation under Section XXII. as aforesaid.

INCOME TAX AMENDMENT.

ACT No. XXXIX. OF 1860.

[*Received assent of the G. G. on the* 18*th August*, 1860.

1, 2. Income tax to be paid on Salaries of Government Servants employed in territories of Foreign Prince &c., if paid by Government; at (2,) same rates as other public Salaries.

3. Postponement of the operation of the I. T. Act by Governor General in Council shall not extend to Tax in respect of land &c. interest &c., office and Annuity or Salaries &c., unless they are specially exempted by the order.

4, 5, 6. Oath of secrecy required by Section XXXIII. of the I. T. Act not to be required of Ex-officio Assessors for specified purpose; and (5,) assessment already made by such unsworn Ex-officio Assessors to be valid; and (6,) such unsworn Ex-officio Assessors shall not be liable to actions &c.

7. Excludes from the exemption in Section CXXVII. of the I. T. Act Officers, Non-Commissioned and Privates of Her Majesty's forces &c. in Civil employment.

8. Repeals Section CXXVIII. of the I. T. Act.

9. Exempts Commissioned and Warrant Officers of Her Majesty's Navy and Indian Navy, and all Officers &c. in the Marine Department, whose pay

and allowances do not exceed those of a Lieutenant in Her Majesty's Indian Navy, and absolutely exempts all petty Officers and Seamen &c., such exemption to extend to all who are liable to serve &c. though not actually serving, but not to those out of service whose service if called for is optional.

An Act to amend Act XXXII. of 1860 (for imposing Duties on Profits arising from Property, Professions, Trades, and Offices).

Preamble.

Whereas it is expedient to amend Act XXXII. of 1860 *(for imposing Duties on Profits arising from Property, Professions, Trades, and Offices)*: It is enacted as follows:—

Duties on Public Offices, Annuities, &c.

I. The Duties mentioned in Sections I. and III. of the said Act shall be collected and paid in respect of every public office or employment of profit in the territories of any Foreign Prince or State in alliance with Her Majesty, held by any public servant within such territories by virtue of an appointment made by any Government or public servant of Her Majesty in India, whether the salary or profits of such office or employment are paid out of, or derived from, the revenues of India or not.

Provisions of Act XXXII. of 1860 applicable.

II. The several provisions, rules, and exemptions in the said Act relating to the said Duties in respect of public offices and employments, and annuities, pensions, and salaries payable by the Government of India, and to the assessment, reduction, and payment thereof, shall apply and extend to the said Duties in the first Section of this Act mentioned.

Effect of postponement of the operation of Act XXXII. of 1860.

III. Whenever the Governor-General of India in Council shall under Section CCXLIII. of the said Act XXXII. of 1860, postpone the period for the said Act to come into operation in any part of India, the operation of the said Act shall not be suspended in respect of the Duties payable for and in respect of any land or houses situate in such part of India, unless the same shall be specially exempted in the order for postponement, or for or in respect of any interest, annuities, or dividends payable out of the public revenues of India, or for or in respect of any office or employment of profit, or for or in respect of any annuity, salary, or pension payable in such part of India. But all the provisions, rules, and exemptions in the said Act relating to the said Duties mentioned in this Section shall take effect in respect thereof, not-

withstanding such postponement, to the same extent and in the same manner as if no such postponement had taken place.

Oath of Secrecy.

IV. Section XXXIII. of the said Act, requiring that every Commissioner and Collector or other Officer employed in making any assessment under the said Act, shall before acting in execution of the said Act take an oath of secrecy, shall not apply or extend to any Ex-Officio Assessor constituted by Section XXVI. of the said Act for executing the said Act for the purpose of assessing and discharging the Duties thereby imposed in respect of interest on Securities in the Government of India, and the other Duties in the said Section referred to, or to the Ex-officio Assessors constituted by Sections XXVII. XXVIII. XXIX. and XXX. of the said Act, for executing the said Act for the purpose of assessing the Duties in respect of the salaries, pay, and allowances and pensions in those Sections respectively mentioned, so as to avoid or affect any assessment of such Duties made by such Ex-officio Assessors before taking the oath of secrecy mentioned in the said Section XXXIII. or so as to expose any such Ex-officio Assessor to any prosecution or proceedings whatsoever for making any assessment of such Duties as aforesaid without having taken the said oath of secrecy.

Assessments already made, declared valid.

V. Every assessment heretofore made by any of the said Ex-officio Assessors of any of the Duties in the last preceding Section mentioned, and which would have been valid if such Assessor had, before acting in the execution of the said Act, duly taken the oath prescribed by the said Section XXXIII. thereof, shall be a valid assessment of the said Duties, notwithstanding that such Assessor may not, before or at the time of making the said assessment, have taken an oath of secrecy as prescribed by the said Section, or any oath.

Indemnity.

VI. No action, indictment, information, or other proceeding shall be had or taken against any Ex-officio Assessor for or by reason of his having made any assessment of any of the Duties in Section IV. of this Act mentioned, without having taken the oath of secrecy prescribed by Section XXXIII. of the said Act XXXII. of 1860, or any oath of secrecy.

VII. The exemption provided in Section CXXVII. of the

Military Officers in Civil employment not exempt.

said Act XXXII of 1860 shall not extend to Officers, Non-Commissioned Officers, or Privates of Her Majesty's Forces or of Her Majesty's Indian Military Forces who may be in Civil employment other than employment in the Police.

Repeal of Section CXXVIII.

VIII. Section CXXVIII. of the said Act XXXII. of 1860 is hereby repealed.

Exemption of Naval and Marine Officers.

IX. All Commissioned Officers and Warrant Officers of Her Majesty's Navy or of the Indian Naval Forces, whose naval pay and allowances shall not exceed the full pay and allowances of a Lieutenant in Her Majesty's Indian Naval Forces:

All Officers and persons in the employment of Government in the Marine Department, whose pay and allowances shall not exceed the pay and allowances of a Lieutenant in Her Majesty's Indian Naval Forces:

All petty Officers or Seamen of Her Majesty's Navy or of Her Majesty's Indian Naval Forces, and all Seamen in the employment or pay of the Government, shall be exempted from the said Duties in respect of any pay or allowances which they may receive from Her Majesty, or from the Government, or from any public Revenue.

Provisó.

Provided always that the said exemptions of Officers or persons in the employment of the Government of India in the Marine Department, shall extend to all Officers and persons in the said employment, who may, by virtue of their employment, be bound to serve, or be liable to be required by the Government to serve on board of a ship or vessel at sea, or in any river or port, whether such Officers or persons shall be actually so serving or not; but shall not extend to any Officer or person who may not, by virtue of his employment, be bound or liable so to serve, when and if required by the Government.

Constructions.

X. This Act shall be read and construed as part of Act XXXII. of 1860.

STAMP DUTIES.

ACT No. XL. OF 1860.

[*Received assent of the G. G. on the 11th September*, 1860.

Recites expediency of amending Act XXXVI. of 1860.

1. Suspends Act XXXVI, 1860. as regards Bills, Letters of Credit, Cheques, Promissory Notes, Hoondees and similar Instruments, &c. until 1st January, 1861.

2. Establishes penalty for fraudulent use of a once used adhesive Stamp.

3. Empowers G. G. in C. to prescribe duty from 1st January 1861 on transfer by endorsement of Bank and Joint Stock shares, until which date transfer by endorsement to be accompanied by a deed, &c. to be stamped with deed stamp.

4. Re-establishes Article 4, Schedule A, Act XXVI, 1860 as respects inland and foreign Bill for the Bills, &c. mentioned in Sec. 1, from 1st January 1861.

5. Repeals Act XXXVI, 1860 ss. 21, 22, and instead Stamp Vendor to write on back of specified Stamp name of purchaser, subject to penalty for writing false name.

6. Substitutes new Article 28 for existing one in Schedule A, of Stamp Act.

7. Act XXXVI, 1860 not to extend to Straits Settlement.

8. This Act to be read as part of Act XXXVI, 1860.

An Act to Amend Act XXXVI. of 1860.

Whereas it is expedient to Amend Act XXXVI. of 1860: (*To consolidate and amend the law relating to Stamp Duties*); It is enacted as follows:—

Preamble.

Act not to come into force as regards Bills of Exchange, &c. payable after date or sight, until 1st January 1861.

I. So much of the aforesaid Act as imposes Duties on Bills of Exchange, Letters of Credit, Drafts, Cheques on Bankers or others, Promissory Notes, Hoondees, and other Orders and Obligations for the payment of money, not being Bonds or other Instruments or Writings bearing the attestation of one or more witnesses, if payable at any period not exceeding one year after date or sight, or otherwise relates to such Instruments, shall not come into force until the 1st of January 1861, or until such subsequent date as the Governor-General in Council by an order in the Gazette previous to the said date may prescribe. Until that date all Regulations and Acts or parts thereof which are repealed by Section I, of the aforesaid Act shall remain in full force as regards all such Instruments as aforesaid. Provided that nothing in this Act shall affect Drafts or Orders

for the payment of money on demand, and bearing the date on which the Draft or Order is made.

Penalty for use of Postage Stamp which has been removed.

II. If any person shall affix or use any adhesive Postage Stamp, which to his knowledge shall have been taken off or removed from any paper whereon any Receipt or any Draft, Order, or Bill of Exchange, or other Instrument requiring a Stamp under the said Act shall have been written, or from any letter or Packet, to or for any Receipt, Draft, Order, or Bill of Exchange or other Instrument so requiring a Stamp, or to or for any paper whereon the same shall be or be intended to be written, or to or for any letter or Packet—every person so offending shall forfeit a sum not exceeding two hundred Rupees.

Transfers of shares of Banking Corporations or Joint Stock Companies.

III. On and after the 1st January 1861, or such subsequent date as the Governor-General in Council, by an order in the Gazette, may prescribe, the Duty chargeable on the transfer of the shares of any Banking Corporation or Joint Stock Company which by any Law applicable to such Corporation or Company can be effected by simple endorsement, shall be denoted by an adhesive Stamp or more than one adhesive Stamp: and all the provisions of the said Act relating to the use of adhesive Stamps on Bills of Exchange and the like shall be applicable to such adhesive Stamps used as aforesaid. Until the 1st January 1861, or such subsequent date as may be prescribed, every transfer of the shares of any such Corporation or Company which can now be effected by endorsement, shall be accompanied by a Deed or Memorandum of transfer bearing a Stamp of the value prescribed for such transfers, otherwise the transferree shall be liable to a penalty not exceeding ten times the amount of the requisite Stamp.

Rates of Duties on Bills of Exchange, Letters of Credit, &c., payable within one year after date or sight.

IV. The rates of Duties prescribed in Article 4, of Schedule A, of the said Act for inland and foreign Bills payable at any period not exceeding one year after date or sight, shall, as soon as the Law imposing such Duties shall come into operation, be the rates of Duties to be imposed on Letters of Credit, Drafts, Cheques on Bankers, Promissory Notes, Hoondees, and other Orders and Obligations for the payment of money

at any period as aforesaid, not being Bonds, Instruments or Writings bearing the attestation of one or more witnesses.

Repeal of Sections XXI and XXII of Act XXXVI of 1860, and substitution of the following.

V. Sections XXI. and XXII. of Act XXXVI. of 1860 are repealed, and the following new Sections shall be read as Sections XXI. and XXII. of the said Act:—

"XXI. Every Vendor of Stamps shall write on the back of each Stamp which he sells, except adhesive Stamps and Stamps used for Receipts, or for Bills of Exchange, Promissory Notes, Drafts, or other Orders for money, Bankers' agreements for loans, or Bills of Lading, the date of issue, the name of the person to whom it is issued, and his own ordinary signature, on pain of a fine not exceeding one hundred Rupees."

"XXII. Any Vendor who shall knowingly write a false name or date on the back of any Stamp which he is required to endorse under the foregoing Section, shall be punished by a fine not exceeding five hundred Rupees, or imprisonment not exceeding three months, or both."

Repeal of Article 28 of Schedule A, and substitution of new Article.

VI. Article 28 of Schedule A. of the said Act is repealed, and the following words shall be read as Article 28 of the said Schedule of the said Act:—

"28. Engagements to cultivate, produce, provide, or deliver any Article of Commerce in consideration of advance made.	Shall be charged on the amount advanced at the rate of Bonds."

Act XXXVI of 1860 not to extend to the Straits Settlement.

VII. The said Act XXXVI of 1860 shall not extend to the Straits Settlement.

Construction.

VIII. This Act shall be read and construed as part of Act XXXVI of 1860.

EMIGRATION TO SAINT KITTS.

ACT No. XLI OF 1860.

[*Received assent of the G. G. on the 3d October*, 1860.

1. 2. Repeals Act XIV, 1839 as respects emigration from Calcutta, Madras and Bombay to St. Kitts; and (2) extends XXXI, 1855 to emigration to St. Kitts.

3. Act to take effect from time of proclamation.

An Act relating to the Emigration of Native Laborers to the British Colony of Saint Kitts.

Preamble.

Whereas it is expedient to render lawful the Emigration of laborers, being Native Inhabitants of British India, to the British Colony of Saint Kitts, and to extend the provisions of Act XXXI. of 1855 *(relating to the Emigration of Native Laborers to the British Colonies of Saint Lucia and Grenada)* to the Emigration of Native Inhabitants of British India who may emigrate to Saint Kitts; It is enacted as follows:—

Act repealed.

I. Act XIV. of 1839, in so far as it renders liable to penalties every person who shall make with any Native of India any contract for labor to be performed in the British Colony of Saint Kitts, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, to the said Colony, is repealed.

Act XXXI of 1855 extended.

II. All the provisions of Act XXXI. of 1855 and of the Schedules thereto shall extend and apply to Native Inhabitants of the British Territories in India who shall emigrate to Saint Kitts, and that Act shall be read as if the words "or the British Colony of Saint Kitts" had been inserted therein after the words "Saint Lucia and Grenada," or "Saint Lucia or Grenada," wherever those words occur in the said Act.

Commencement of Act.

III. This Act shall take effect as to the Colony of Saint Kitts from the day when the Governor-General of India in Council shall notify in the Calcutta Gazette that such Regulations have been provided and such measures taken as the Governor-General in Council deems necessary for the protection of such emigrants during their residence in the said Colony of Saint Kitts and in respect of their return to India.

MOFUSSIL. SMALL CAUSE COURTS.

ACT No. XLII OF 1860.

[*Received assent of the G. G. on the 6th October*, 1860.

Recites expediency of establishing Small Cause Courts in Mofussil.

1, 2. Empowers Presidency governments to establish and (2) fix territorial jurisdiction of S. C. Courts.

3, 4. Limits jurisdiction (as respects Causes) to debts, damages and demands not exceeding 500 Rs., and excludes partnership accounts, except where balance struck, shares under intestacy, and legacy, rent and other matter recoverable before revenue officer and damages, unless special, for personal injury; and (4) as respects, persons to inhabitants and persons working for gain within local limits of Court.

5. English to be the language of the Court, and Court to be subordinate to the Sudder.

6 No other Court to have jurisdiction over Suits cognizable in S C. C., but saving existing jurisdiction of Magistrates, Assistants and Deputies, Village Moonsiffs and Punchayets (in Madras) Military Courts of Requests, Cantonment Joint Magistrates and Punchayets.

7, 8. Local Government to appoint the place, and (8) judge the time for holding sittings.

9. Summons to be for final disposal of suit and only plaint to be written.

10, 11. Court may issue warrant against personal property of debtor generally or against specific personal property; and (11) execution afterwards may be issued by Civil Court against immovable property.

12, 13, 14. Decisions and orders of Court to be final, but Court may grant new trial; and (13) may send statement to Sudder for its opinion on questions of law, &c.; but (14) may make final order contingent on and subject to opinion of Sudder.

15, 16, 17, 18, 19. Cases referred to Sudder shall be decided by full Bench; which (16) shall fix day for hearing; and (17) parties may appear by pleaders and (18) Court shall send its decision under seal; and (19) Costs of reference to be costs in suits.

20. Empowers the Sudder to make Practice Rules for S. C. Court.

21. Code of Civil Procedure to apply to this Court except as is excepted

An Act for the establishment of Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of Judicature established by Royal Charter.

Preamble.

Whereas, with a view to the more easy recovery of small debts and demands, it is expedient to establish Courts of Small Causes beyond the local limits of the jurisdiction of the Supreme Courts of judicature established by Royal Charter at the several Presidencies of Calcutta, Madras, and Bombay; It is enacted as follows:—

Constitution of Small Cause Courts.

I. It shall be lawful for the Executive Government of any of the said Presidencies or of any place, with the previous sanction of the Governor-General in Council, to constitute Courts of Small Causes, with the required establishment of Officers, at any place within the limits of their

respective Governments, for the trial of suits under this Act, and to abolish any Court so constituted. Provided that no Judge of any Court constituted under this Act shall exercise any Civil jurisdiction except under the provisions of this Act.

Limits of territorial jurisdiction to be fixed.

II. Whenever any such Court may be so constituted, the Executive Government shall fix the territorial jurisdiction of such Court, and may, from time to time, alter the same as may appear proper.

Description of suits cognizable by Small Cause Courts.

III. The following are the suits which shall be cognizable by Courts of Small Causes constituted under this Act, namely, claims for money due, whether on bond or other contract, or for rent, or for personal property, or for the value of such property, or for damages, when the debt, damage, or demand does not exceed in amount or value the sum of five hundred Rupees. Provided that no action shall lie in any such Court on a balance of partnership account, unless the balance shall have been struck by the parties or their agents; or for a share or part of a share under an intestacy, or for a legacy or part of a legacy under a will; or for any claim for the rent of land or any other claim for which a suit may be brought before a Revenue Officer, or for the recovery of damages on account of alleged personal injuries, unless special damage of a pecuniary nature shall have resulted from such injury.

Proviso.

Jurisdiction of the Court.

IV. Every Court of Small Causes constituted under this Act shall have cognizance of all such suits as are mentioned in the last preceding Section, if the defendant at the time of the commencement of the suit shall dwell or personally work for gain within the local limits of the jurisdiction of such Court.

Seal of the Court.

Court to be generally subject to the Sudder Court.

V. Every Court constituted under this Act shall use a seal bearing the following inscription in English and in the language of the Court—"Court of Small Causes of ;" and every such Court shall be subject to the general control and orders of the Sudder Court.

Suits within the jurisdiction of and cognizable by Small Cause

VI. Wherever a Court of Small Causes is constituted under this Act, no suit cognizable by such Court under the provisions of this Act shall be heard

Courts, not to be heard by any other Court.

or determined in any other Court having any jurisdiction within the local limits of the jurisdiction of such Small Cause Court. Provided that nothing in this Act shall be held to take away the jurisdiction which a Magistrate, or a person exercising the powers of a Magistrate, or an Assistant or a Deputy Magistrate, can now exercise in regard to debts or other claims of a civil nature; or the jurisdiction which can be exercised by Village Moonsiffs or Village or District Punchayets under the provisions of the Madras Code, or by Military Courts of Request, or by Cantonment Joint Magistrates invested with Civil jurisdiction under Act III. of 1859, or by a single Officer duly authorized and appointed under the rules in force in the Presidencies of Fort St. George and Bombay respectively, for the trial of small suits in Military Bazars, in Cantonments, and Stations occupied by the troops of those Presidencies respectively, or by Punchayets in regard to suits against Military persons, according to the rules in force under the Presidency of Fort St. George.

Saving of jurisdiction of Magistrate, &c.

Of Village Moonsiffs and Village or District Punchayets in Madras.

of Military Courts of Request—

of single Officers appointed to try small suits in Madras and Bombay.

and of Military Punchayets in Madras.

VII. Courts of Small Causes constituted under this Act shall be held at such place or places within the local limits of their respective jurisdictions as shall from time to time be appointed by the local Government to which such Courts are subordinate.

Courts where to be held.

VIII. Whenever any such Court is directed to be held at more places than one within the local limits of its jurisdiction, the Judge of such Court, subject to the control of the Sudder Court, shall appoint the time at which the Court shall hold its sittings in every such place. Due notice of the time so appointed shall be given by a proclamation to be fixed up in some conspicuous place in the Court house or other building in which the sittings of the Court are to be held.

Time of holding Courts, if they be directed to be held in more places than one.

IX. In all suits under this Act the summons to the defendant shall be for the final disposal of the suit, and no written statement other than the plaint shall be received unless required by the Court.

Summons.

X. At the time of passing a decree under this Act, the Court may on the verbal application of the party in whose favor the decree is passed, direct immediate execution of the same by the issue of a warrant directed either generally against the personal property of the judgment debtor wherever it may be found within the local limits of the Court's jurisdiction, or specially against any personal property belonging to the judgment debtor within the same limits which may be indicated by the judgment creditor.

On application, immediate execution of decree may be granted against personal property of judgment debtor.

XI. In the execution of a decree under this Act, if, after the sale of the movable property of a judgment debtor, any portion of a judgment shall remain due and the holder of such judgment desire to issue execution upon any immovable property belonging to the judgment debtor, the Court, on the application of such judgment creditor, shall grant him a copy of the judgment and a certificate of any sum remaining due under it, and on the presentation of such copy and certificate to any Civil Court having general jurisdiction in the place in which the immovable property of the judgment debtor is situate, such Court shall proceed to enforce such judgment according to its own rules and mode of procedure in like cases.

Execution against immovable property, if movable property not sufficient.

XII. In suits tried under this Act, all decisions and orders of the Court shall be final. Provided that it shall be competent to the Court, if it shall think fit, to grant a new trial if applied for within the period of thirty days from the date of the decision; but no new trial shall be granted unless the party applying for the same shall with his application deposit in Court the amount for which judgment shall have been given against him including the costs (if any) of the opposite party.

Decision in certain suits to be final. Proviso.

XIII. If in the trial of any suit under this Act any question of law, or usage having the force of law, or the construction of a document affecting the merits of the decision, shall arise, on which the Court shall entertain reasonable doubts, the Court may, either of its own motion or on the application of any of the parties to

Court may refer questions of law, &c. to Sudder Court.

the suit, draw up a statement of the case and submit it, with its own opinion, for the decision of the Sudder Court.

Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.

XIV. The Court may proceed in the case notwithstanding a reference to the Sudder Court, and may pass a decree contingent upon the opinion of the Sudder Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the Sudder Court, until the receipt of the order of that Court.

Full bench of the Sudder Court to decide cases referred under this Act.

XV. Cases referred for the opinion of the Sudder Court shall be dealt with by a full bench of that Court.

Sudder Court to fix an early day for the hearing of the case. Proclamation thereof.

XVI. The Sudder Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court-house of that Court.

Parties may appear and be heard in person or by pleader.

XVII. The parties to the case may appear and be heard in the Sudder Court in person or by pleader.

Decision of Sudder Court how to be transmitted.

XVIII. The Sudder Court, when it has heard and considered the case, shall transmit a copy of its judgment, under the seal of the Court and the signature of the register, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the Sudder Court.

Costs of reference to Sudder Court.

XIX. Costs, if any, consequent on the reference of a case for the opinion of the Sudder Court, shall be costs in the suit.

Sudder Court empowered to make rules of practice, &c.

XX. The Sudder Court shall have power to make and issue general rules for regulating the practice and proceedings of the Courts established under this Act, and also to prescribe forms for every proceeding in the said Courts for which it shall think necessary that a form be provided, and for keeping all books, entries, and accounts to be kept by the Officers, and from time to time to alter any such rule or form; provided that such rules and forms be not inconsistent with the provisions of this Act or of any other law in force.

XXI. Except as hereinbefore provided, the provisions of Act VIII. of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)* shall be applicable to cases cognizable under this Act in so far as the same may be applicable and necessary.

Provisions of Act VIII. of 1859 made applicable to cases cognizable under this Act.

MOFUSSIL SMALL CAUSE COURTS. SPECIAL APPEAL.

ACT No. XLIII. OF 1860.

[*Received assent of the G. G. on the 6th October*, 1860.

1, 2. Abolishes special appeal in Suits under 500 Rs. cognizable in Small Cause Courts under Act XLII. 1860; but (2) case may be sent to the Sudder for opinion on questions of law, or the construction of a document.

An Act to amend Act VIII. of 1859 (for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter.)

Preamble.

Whereas it is expedient to amend the provisions relating to special appeals contained in Act VIII. of 1859 *(for simplifying the Procedure of the Courts of Civil Judicature not established by Royal Charter)*; It is enacted as follows:—

No special appeal from decision of any Court subordinate to the Sudder Court in certain suits.

I. No special appeal shall lie from any decision or order which shall be passed on regular appeal after the passing of this Act by any Court subordinate to the Sudder Court, in any suit of the nature cognizable in Courts of Small Causes under Act XLII. of 1860, when the debt, damage, or demand for which the original suit shall be instituted shall not exceed five hundred Rupees. But every such order or decision shall be final.

Reference of question to the Sudder.

II. If in any suit in which an order or decision is made final under this Act, any question of law, or usage having the force of law, or the construction of a document affecting the merits of the case, shall arise, on which the Court trying such suit shall entertain reasonable doubts, the Court may either of its own motion, or on the application of either of the parties to the suit, draw up a statement of the case, and submit such statement with its own opinion for the decision of the Sudder Court.

III. The Court may proceed in the case notwithstanding a reference to the Sudder Court, and may pass a decree contingent upon the opinion of the Sudder Court on the point referred; but no execution shall be issued in any case in which a reference shall be made to the Sudder Court, until the receipt of the order of that Court.

Court may pass decree contingent upon the opinion of the Sudder Court, pending which execution not to issue.

IV. Cases referred for the opinion of the Sudder Court shall be dealt with by a full bench of that Court.

Full bench of the Sudder Court to decide cases referred under this Act.

V. The Sudder Court shall fix an early day for the hearing of the case, and shall notify the same by a proclamation to be fixed up in the Court-house of that Court.

Sudder Court to fix an early day for the hearing of the case Proclamation thereof.

VI. The parties to the case may appear and be heard in the Sudder Court in person or by pleader.

Parties may appear and be heard in person or by pleader.

VII. The Sudder Court, when it has heard and considered the case, shall transmit a copy of its judgment under the seal of the Court and the signature of the Register, to the Court by which the reference was made; and such Court shall, on the receipt thereof, proceed to dispose of the case conformably to the decision of the Sudder Court.

Decision of Sudder Court how to be transmitted.

VIII. Costs, if any, consequent on the reference of a case for the opinion of the Sudder Court, shall be costs in the suit.

Cost of reference to Sudder Court.

IX. Nothing in this Act shall extend to any decision or order passed on regular appeal by any Assistant Judge in the Presidency of Bombay.

Act not to extend to decisions passed on regular appeal by Assistant Judges in Bombay.

X. This Act shall be construed and read as part of Act VIII. of 1859.

Construction of Act.

GOVERNOR GENERAL.

ACT No. XLIV. OF 1860.

[*Received the assent of the G. G. on the 6th day of October* 1860.]

Recites expediency of G. G. visiting the N. W. Provinces.

1. Empowers the G. G. without his Council to exercise all the powers of the G. G. in C.

2. Empowers the Pres. in C. to exercise all the powers vested by any Act of the Government of I. in the G. G. in C.

3. Act to commence from notification in Gazette and continue for 3 months only.

An Act for providing for the exercise of certain powers by the Governor-General during his absence from his Council.

Preamble.

Whereas the Governor-General in council has declared that it is expedient that the Governor-General should visit the North-Western Provinces of the Presidency of Fort William in Bengal, and other parts of India, unaccompanied by any Member of the Council; It is enacted as follows:—

Powers to be exercised by the Governor-General during his absence from Council.

I. During the absence of the Governor-General from his Council, it shall be lawful for the Governor-General alone to exercise all the powers which might be exercised by the Governor-General in Council in every case in which the said Governor-General may think it expedient to exercise those powers.

Powers of the President in Council.

II. All powers vested in the Governor-General in Council by any Act of the Government of India, may be lawfully exercised by the President in Council.

Commencement and duration of Act.

III. This Act shall commence from the day on which it shall be notified, by an order published in the Official Gazette, that the Governor-General has quitted Calcutta for the purpose of so proceeding as aforesaid, and shall not continue in force a longer period than three months.

THE INDIAN PENAL CODE.

ACT No. XLV. OF 1860.

[*Received the assent of the G. G. on the 6th day of October* 1860.]

CHAPTER I.

TITLE OF THE CODE.

Recites expediency of providing a general Penal Code for British India.

1—3. Act to be called the Indian Penal Code, and it shall take effect on and after 1st May 1861, and (2) every person shall be liable to punishment under it, and not otherwise for acts contrary to its provisions, (3) if triable within, though the offences be committed without the territories, provided the jurisdiction to try is given by an Indian Act.

4. Extends the punishments of the Code to servants of the Queen for offences committed in Native States.

5. This Act not to repeal, vary, &c., any provisions of 3 and 4 Wm. IV., c. 85, nor of the Mutiny Act, nor of the Indian Navy Act, nor of any special or local law.

Preamble.

WHEREAS it is expedient to provide a General Penal Code for British India; It is enacted as follows:—

Title and extent of operation of the Code.

1. This Act shall be called THE INDIAN PENAL CODE, and shall take effect on and from the 1st day of May 1861 throughout the whole of the Territories which are or may become vested in Her Majesty by the Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

Punishment of offences committed within the said Territories.

2. Every person shall be liable to punishment under this Code and not otherwise for every act or omission contrary to the provisions thereof, of which he shall be guilty within the said Territories on or after the said 1st day of May 1861.

Punishment of offences committed beyond, but which by law may be tried within the Territories.

3. Any person liable, by any law passed by the Governor-General of India in Council, to be tried for an offence committed beyond the limits of the said Territories, shall be dealt with according to the provisions of this Code for any act committed beyond the said Territories, in the same manner as if such act had been committed within the said Territories.

Punishment of offences committed by a servant of the Queen within a Foreign allied State.

4. Every servant of the Queen shall be subject to punishment under this Code for every act or omission contrary to the provisions thereof, of which he, whilst in such service, shall be guilty on or after the said 1st day of May 1861, within the dominions of any Prince or State in alliance with the Queen, by virtue of any treaty or engagement heretofore entered into with the East India Company, or which may have been or may hereafter be made in the name of the Queen by any Government of India.

Certain laws not to be affected by this Act.

5. Nothing in this Act is intended to repeal, vary, suspend, or affect any of the provisions of the Statute 3 and 4 William IV. Chapter 85, or of any Act of Parliament passed after that Statute in any wise affecting the East India Company, or the said Territories, or the inhabitants thereof; or any of the provisions of any Act for punishing mutiny and desertion of Officers and Soldiers, in the service of Her Majesty or of the East India Company, or of any Act for the government of the Indian Navy, or of any special or local law.

CHAPTER II.

GENERAL EXPLANATIONS.

6. Every part of the Code is to be understood subject to the General Exceptions, contained in Chapter IV., so entitled, in connection with the "illustrations" in this Section given.

7. Expression or words once explained are used in every part of the Code in the same sense.

8—31. Explains the pronoun "he"; (9) the use of singular and plural number; (10) the word "man;" (11) "person;" (12) "public;" (13) "Queen;" (14) "Servant of the Queen;" (15) "British India;" (16) "Government of India;" (17) "Government;" (18) "Presidency;" (19) "Judge" with illus-

trations; (20) "Court of Justice" with illustrations; (21) "Public Servant" with specifications and by general definitions; (22) "moveable property;" (23) "wrongful gain;" "wrongful loss;" (24) "dishonestly;" (25) "fraudulently;" (26) "reason to believe;" (27) "possession;" (28) "counterfeit;" (29) "document" with illustrations; (30) "valuable security;" (31) "a will."

32. "Acts" to mean also omissions.

33. "Acts," "omissions," to apply to a series of acts and omissions.

34—35. Joint offenders to be severally responsible; (35) if acting upon a common intent.

36. An omission to be construed as an act in estimating criminality.

37. In offences committed by means of several acts and several persons, any one of the acts is to be constructively a commission of the offences. Rule illustrated.

38. One and the same act may constitute several different offences.

39—51. Explains words "voluntarily," with illustration; (40) "offence;" (41) "special law;" (42) "local law;" (43) "illegal" and "legally bound;" (44) "injury;" (45) "life;" (46) "death;" (47) "animal;" (48) "vessel;" (49) "year," "month;" (50) "section;" (51) "oath."

52. Good faith shall not be imputed where there was want of due care and attention.

Definitions in the Code to be understood subject to exceptions.

6. Throughout this Code every definition of an offence, every penal provision, and every illustration of every such definition or penal provision, shall be understood subject to the exceptions contained in the Chapter entitled "General Exceptions," though those exceptions are not repeated in such definition, penal provision, or illustration.

Illustrations.

(a) The Sections, in this Code, which contain definitions of offences, do not express that a child under seven years of age cannot commit such offences; but the definitions are to be understood subject to the general exception which provides that nothing shall be an offence which is done by a child under seven years of age.

(b) A, a Police Officer, without warrant, apprehends Z, who has committed murder. Here A is not guilty of the offence of wrongful confinement; for he was bound by law to apprehend Z, and therefore the case falls within the general exception, which provides that "nothing is an offence which is done by a person who is bound by law to do it."

Expression once explained is used in the same sense throughout the Code.

7. Every expression which is explained in any part of this Code, is used in every part of this Code in conformity with the explanation.

Gender.

8. The pronoun "he" and its derivatives are used of any person, whether male or female.

Number.

9. Unless the contrary appears from the context, words importing the singular number include the plural number, and words importing the plural number include the singular number.

"Man." "Woman."

10. The word "man" denotes a male human being of any age; the word "woman" denotes a female human being of any age.

"Person."

11. The word "person" includes any Company or Association, or body of persons, whether incorporated or not.

"Public."

12. The word "public" includes any class of the public or any community.

"Queen."

13. The word "Queen" denotes the Sovereign for the time being of the United Kingdom of Great Britain and Ireland.

"Servant of the Queen."

14. The words "servant of the Queen" denote all officers or servants continued, appointed, or employed in India by or under the authority of the said Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," or by or under the authority of the Government of India, or any Government.

"British India."

15. The words "British India" denote the Territories which are or may become vested in Her Majesty by the said Statute 21 and 22 Victoria, Chapter 106, entitled "An Act for the better Government of India," except the Settlement of Prince of Wales' Island, Singapore, and Malacca.

"Government of India."

16. The words "Government of India" denote the Governor-General of India in Council, or, during the absence of the Governor-General of India from his Council, the President in Council, or the Governor-General of India alone as regards the powers which may be lawfully exercised by them or him respectively.

17. The word "Government" denotes the persons authorized by law to administer Executive Government in any part of British India.

"Government."

18. The word "Presidency" denotes the Territories subject to the Government of a Presidency.

"Presidency."

19. The word "Judge" denotes not only every person who is officially designated as a Judge, but also every person who is empowered by law to give, in any legal proceeding, civil or criminal, a definitive judgment, or a judgment which, if not appealed against, would be definitive, or a judgment which, if confirmed by some other authority, would be definitive, or who is one of a body of persons, which body of persons is empowered by law to give such a judgment.

"Judge."

Illustrations.

(a) A Collector exercising jurisdiction in a suit under Act X. of 1859 is a Judge.

(b) A Magistrate exercising jurisdiction in respect of a charge on which he has power to sentence to fine or imprisonment, with or without appeal, is a Judge.

(c) A Member of a Punchayet which has power, under Regulation VII. 1816, of the Madras Code, to try and determine suits, is a Judge.

(d) A Magistrate exercising jurisdiction in respect of a charge on which he has power only to commit for trial to another Court, is not a Judge.

20. The words "Court of Justice," denote a Judge who is empowered by law to act judicially alone, or a body of Judges which is empowered by law to act judicially as a body, when such Judge or body of Judges is acting judicially.

"Court of Justice."

Illustration.

A Punchayet acting under Regulation VII. 1816, of the Madras Code, having power to try and determine suits, is a Court of Justice.

21. The words "Public Servant" denote a person falling under any of the descriptions hereinafter following, namely :—

"Public Servant."

First.—Every Covenanted Servant of the Queen ;

Second.—Every Commissioned Officer in the Military or Naval Forces of the Queen while serving under the Government of India or any Government;

Third.—Every Judge.

Fourth.—Every officer of a Court of Justice whose duty it is, as such officer, to investigate or report on any matter of law or fact, or to make, authenticate, or keep any document, or to take charge or dispose of any property, or to execute any judicial process, or to administer any oath, or to interpret, or to preserve order in the Court; and every person specially authorized by a Court of Justice to perform any of such duties;

Fifth.—Every Juryman, Assessor, or member of a Punchayet assisting a Court of Justice or public servant;

Sixth.—Every Arbitrator or other person to whom any cause or matter has been referred for decision or report by any Court of Justice, or by any other competent public authority;

Seventh.—Every person who holds any office by virtue of which he is empowered to place or keep any person in confinement;

Eighth.—Every officer of Government whose duty it is, as such officer, to prevent offences, to give information of offences, to bring offenders to justice, or to protect the public health, safety, or convenience;

Ninth.—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property on behalf of Government, or to make any survey, assessment, or contract on behalf of Government, or to execute any revenue process, or to investigate, or to report, on any matter affecting the pecuniary interests of Government, or to make, authenticate, or keep any document relating to the pecuniary interests of Government, or to prevent the infraction of any law for the protection of the pecuniary interests of Government, and every officer in the service or pay of Government or remunerated by fees or commission for the performance of any public duty;

Tenth.—Every officer whose duty it is, as such officer, to take, receive, keep, or expend any property, to make any survey or assessment, or to levy any rate or tax for any secular common purpose of any village, town, or district, or to make, authenticate

or keep any document for the ascertaining of the rights of the people of any village, town, or district.

Illustration.

A Municipal Commissioner is a public servant.

Explanation 1.—Persons falling under any of the above descriptions are public servants, whether appointed by the Government or not.

Explanation 2.—Wherever the words "public servant" occur, they shall be understood of every person who is in actual possession of the situation of a public servant, whatever legal defect there may be in his right to hold that situation.

"Moveable property."

22. The words "moveable property" are intended to include corporeal property of every description, except land and things attached to the earth or permanently fastened to any thing which is attached to the earth.

"Wrongful gain."

23. "Wrongful gain" is gain by unlawful means of property to which the person gaining is not legally entitled.

"Wrongful loss."

"Wrongful loss" is the loss by unlawful means of property to which the person losing it is legally entitled.

"Wrongful gain" includes wrongful retention of property.

"Wrongful loss" includes the being wrongfully kept out of property.

A person is said to gain wrongfully when such person retains wrongfully, as well as when such person acquires wrongfully. A person is said to lose wrongfully when such person is wrongfully kept out of any property, as well as when such person is wrongfully deprived of property.

"Dishonestly."

24. Whoever does any thing with the intention of causing wrongful gain to one person, or wrongful loss to another person, is said to do that thing "dishonestly."

"Fraudulently."

25. A person is said to do a thing fraudulently if he does that thing with intent to defraud, but not otherwise.

"Reason to believe."

26. A person is said to have "reason to believe" a thing, if he has sufficient cause to believe that thing, but not otherwise.

27. When property is in the possession of a person's wife, clerk, or servant, on account of that person, it is in that person's possession within the meaning of this Code.

Property in possession of wife, clerk, or servant.

Explanation.—A person employed temporarily or on a particular occasion in the capacity of a clerk or servant, is a clerk or servant within the meaning of this Section.

28. A person is said to "counterfeit," who causes one thing to resemble another thing, intending by means of that resemblance to practise deception, or knowing it to be likely that deception will thereby be practised.

"Counterfeit."

Explanation.—It is not essential to counterfeiting that the imitation should be exact.

29. The word "document" denotes any matter expressed or described upon any substance by means of letters, figures, or marks, or by more than one of those means, intended to be used, or which may be used, as evidence of that matter.

"Document."

Explanation 1.—It is immaterial by what means or upon what substance the letters, figures, or marks are formed, or whether the evidence is intended for, or may be used in a Court of Justice, or not.

Illustrations.

A Writing expressing the terms of a contract, which may be used as evidence of the contract, is a document.

A Check upon a Banker is a document.

A Power of Attorney is a document.

A Map or Plan which is intended to be used, or which may be used as evidence, is a document.

A writing containing directions or instructions is a document.

Explanation 2.—Whatever is expressed by means of letters, figures, or marks, as explained by mercantile or other usage, shall be deemed to be expressed by such letters, figures, or marks within the meaning of this Section, although the same may not be actually expressed.

Illustration.

A writes his name on the back of a Bill of Exchange payable to his order. The meaning of the endorsement, as explained by mercantile usage, is that

the Bill is to be paid to the holder. The endorsement is a document, and must be construed in the same manner as if the words "pay to the holder," or words to that effect, had been written over the signature.

"Valuable Security."

30. The words "valuable security" denote a document which is, or purports to be, a document whereby any legal right is created, extended, transferred, restricted, extinguished, or released, or whereby any person acknowledges that he lies under legal liability, or has not a certain legal right.

Illustration.

A writes his name on the back of a Bill of Exchange. As the effect of this endorsement is to transfer the right to the Bill to any person who may become the lawful holder of it, the endorsement is a "valuable security."

"A Will."

31. The words "a will" denote any testamentary document.

Words referring to acts include illegal omissions.

32. In every part of the Code, except where a contrary intention appears from the context, words which refer to acts done extend also to illegal omissions.

"Act."
"Omission."

33. The word "act" denotes as well a series of acts as a single act: the word "omission" denotes as well a series of omissions as a single omission.

Each of several persons liable for an act done by all in like manner as if done by him alone.

34. When a criminal act is done by several persons, each of such persons is liable for that act in the same manner as if the act were done by him alone.

When such an act is criminal by reason of its being done with a criminal knowledge or intention.

35. Whenever an act, which is criminal only by reason of its being done with a criminal knowledge or intention, is done by several persons, each of such persons who joins in the act with such knowledge or intention is liable for the act in the same manner as if the act were done by him alone with that knowledge or intention.

Effect caused partly by act and partly by omission.

36. Wherever the causing of a certain effect, or an attempt to cause that effect, by an act or by an omission, is an offence, it is to be understood that the causing of that effect partly by an act and partly by an omission is the same offence.

Illustration.

A intentionally causes Z's death, partly by illegally omitting to give Z food and partly by beating Z. A has committed murder.

Co-operation by doing one of several acts constituting an offence.

37. When an offence is committed by means of several acts whoever intentionally co-operates in the commission of that offence by doing any one of those acts, either singly or jointly with any other person, commits an offence.

Illustrations.

(a) A and B agree to murder Z, by severally and at different times giving him small doses of poison. A and B administer the poison according to the agreement with intent to murder Z. Z dies from the effects of the several doses of poison so administered to him. Here A and B intentionally co-operate in the commission of murder, and as each of them does an act by which the death is caused, they are both guilty of the offence, though their acts are separate.

(b) A and B are joint jailors, and as such have the charge of Z, a prisoner, alternately for six hours at a time. A and B, intending to cause Z's death, knowingly co-operate in causing that effect by illegally omitting, each during the time of his attendance, to furnish Z with food supplied to them for that purpose. Z dies of hunger. Both A and B are guilty of the murder of Z.

(c) A, a jailor, has the charge of Z, a prisoner. A, intending to cause Z's death, illegally omits to supply Z with food; in consequence of which, Z is much reduced in strength, but the starvation is not sufficient to cause his death. A is dismissed from his office, and B succeeds him. B, without collusion or co-operation with A, illegally omits to supply Z with food, knowing that he is likely thereby to cause Z's death. Z dies of hunger. B is guilty of murder; but as A did not co-operate with B, A is guilty only of an attempt to commit murder.

Several persons engaged in the commission of a criminal act, may be guilty of different offences.

38. Where several persons are engaged or concerned in the commission of a criminal act, they may be guilty of different offences by means of that act.

Illustration.

A attacks Z under such circumstances of grave provocation, that his killing of Z would be only culpable homicide not amounting to murder. B having ill-will towards Z, and intending to kill him, and not having been subject to the provocation, assists A in killing Z. Here, though A and B are both engaged in causing Z's death, B is guilty of murder, and A is guilty only of culpable homicide.

"Voluntarily."

39. A person is said to cause an effect "voluntarily," when he causes it by means whereby he intended to cause it, or by means which, at the time of employing those means, he knew or had reason to believe to be likely to cause it.

Illustration.

A sets fire, by night, to an inhabited house in a large town, for the purpose of facilitating a robbery, and thus causes the death of a person. Here, A may not have intended to cause death, and may even be sorry that death has been caused by his act; yet, if he knew that he was likely to cause death, he has caused death voluntarily.

40. The word "offence" denotes a thing made punishable by this Code.

"Special Law."

41. A "special law" is a law applicable to a particular subject.

"Local Law."

42. A "Local Law" is a law applicable only to a particular part of British India.

"Illegal."
"Legally bound to do."

43. The word "illegal" is applicable to every thing which is an offence or which is prohibited by law, or which furnishes ground for a civil action; and a person is said to be "legally bound to do" whatever it is illegal in him to omit.

"Injury."

44. The word "injury" denotes any harm whatever illegally caused to any person, in body, mind, reputation, or property.

"Life."

45. The word "life" denotes the life of a human being, unless the contrary appears from the context.

"Death."

46. The word "death" denotes the death of a human being, unless the contrary appears from the context.

"Animal."

47. The word "animal" denotes any living creature, other than a human being.

"Vessel."

48. The word "vessel" denotes any thing made for the conveyance by water of human beings, or of property.

49. Wherever the word "year" or the word "month" is used, it is to be understood that the year or the month is to be reckoned according to the British Calendar.

"Year."

50. The word "section" denotes one of those portions of a Chapter of this Code which are distinguished by prefixed numeral figures.

"Section."

51. The word "oath" includes solemn affirmation substituted by law for an oath, and any declaration required or authorized by law to be made before a public servant, or to be used for the purpose of proof, whether in a Court of Justice or not.

"Oath."

52. Nothing is said to be done or believed in good faith, which is done or believed without due care and attention.

"Good faith."

CHAPTER III.

OF PUNISHMENTS.

53. The punishments under this Code are, (1) death; (2) transportation; (3) penal servitude; (4) imprisonment, of two kinds, rigorous and simple; (5) forfeiture of property; (6) fine.

54—55. Death may be commuted by the Government for any other punishment; (55) transportation for life for imprisonment not exceeding seven years.

56. Europeans and Americans not to be sentenced to transportation, but to penal servitude.

57. In calculation of fractions, transportation for life to be reckoned as equivalent to twenty years.

58. Offenders under sentence of transportation to undergo in the meantime rigorous imprisonment.

59. Authorizes sentence to transportation, whenever sentence might be to seven years' imprisonment.

60. Court may sentence partly to rigorous and partly to simple imprisonment, whenever it may sentence to either.

61. Forfeiture of property to extend to any property acquired intermediately up to completion of the other punishment.

62. Court may sentence to forfeiture of property whenever the offence is punishable with death, and to forfeiture of rents and profits whenever the offender is sentenced to transportation or imprisonment for four years or more.

63. Fines not limited by law shall not be excessive.

64—69. Court may sentence to imprisonment in case fine shall not be paid; but (65) not to exceed one-fourth of the principal term; and (66) this contingent imprisonment may be of either kind; but (67) if the offence be not punishable with imprisonment, the imprisonment in default of payment shall be on specified scale; and (68) payment of the fine shall terminate the imprisonment; or (69) a proportional part of the fine.

70. Fine may be levied at any time within six years, &c., and not to be extinguished by death.

71. Offences not to be split into the several acts of which they may be composed, but to be punished as in their entirety.

72. In case of doubt, whether an offence is A or B, punishment is to be awarded for the highest of the two.

73—74. For offences liable to rigorous imprisonment, solitary confinement may be awarded on a specified scale, which (74) in no case shall exceed fourteen days at once, nor be repeated without an equal interval.

75. A previous conviction shall induce a liability to increased punishment to amount specified.

Punishments.

53. The punishments to which offenders are liable under the provisions of this Code are—

First,—Death;

Secondly,—Transportation;

Thirdly,—Penal Servitude;

Fourthly,—Imprisonment, which is of two descriptions, namely—

(1.) Rigorous, that is, with hard labor;

(2) Simple;

Fifthly,—Forfeiture of property;

Sixthly,—Fine.

Commutation of sentence of death.

54. In every case in which sentence of death shall have been passed, the Government of India, or the Government of the place within which the offender shall have been sentenced, may, without the consent of the offender, commute the punishment for any other punishment provided by this Code.

Commutation of sentence of transportation for life.

55. In every case in which sentence of transportation for life shall have been passed, the Government of India, or the Government of the place within which the offender shall have been sentenced, may, without

the consent of the offender, commute the punishment for imprisonment of either description for a term not exceeding fourteen years.

Europeans and Americans to be sentenced to penal servitude instead of transportation.

56. Whenever any person, being a European or American, is convicted of an offence punishable under this Code with transportation, the Court shall sentence the offender to penal servitude instead of transportation, according to the provisions of Act XXIV. of 1855.

Fractions of terms of punishment.

57. In calculating fractions of terms of punishment, transportation for life shall be reckoned as equivalent to transportation for twenty years.

Offenders sentenced to transportation how to be dealt with until transportation.

58. In every case in which a sentence of transportation is passed, the offender, until he is transported, shall be dealt with in the same manner as if sentenced to rigorous imprisonment, and shall be held to have been undergoing his sentence of transportation during the term of his imprisonment.

In what cases transportation may be awarded instead of imprisonment.

59. In every case in which an offender is punishable with imprisonment for a term of seven years or upwards, it shall be competent to the Court which sentences such offender, instead of awarding sentence of imprisonment, to sentence the offender to transportation for a term not less than seven years, and not exceeding the term for which by this Code such offender is liable to imprisonment.

Sentence may be (in certain cases of imprisonment) wholly or partly rigorous or simple.

60. In every case in which an offender is punishable with imprisonment which may be of either description, it shall be competent to the Court which sentences such offender to direct in the sentence that such imprisonment shall be wholly rigorous, or that such imprisonment shall be wholly simple, or that any part of such imprisonment shall be rigorous and the rest simple.

Sentence of forfeiture of property.

61. In every case in which a person is convicted of an offence for which he is liable to forfeiture of all his property, the offender shall be incapable of acquiring any property, except for the benefit of Government, until he shall have undergone the punishment

awarded or the punishment to which it shall have been commuted, or until he shall have been pardoned.

Illustration.

A, being convicted of waging war against the Government of India, is liable to forfeiture of all his property. After the sentence, and whilst the same is in force, A's father dies, leaving an estate which, but for the forfeiture, would become the property of A. The estate becomes the property of Government.

Forfeiture of property in respect of offenders punishable with death, transportation, or imprisonment.

62. Whenever any person is convicted of an offence punishable with death, the Court may adjudge that all his property, moveable and immoveable, shall be forfeited to Government; and whenever any person shall be convicted of any offence for which he shall be transported or sentenced to imprisonment for a term of seven years or upwards, the Court may adjudge that the rents and profits of all his moveable and immoveable estate during the period of his transportation or imprisonment, shall be forfeited to Government, subject to such provision for his family and dependants as the Government may think fit to allow during such period.

Amount of fine.

63. Where no sum is expressed to which a fine may extend, the amount of fine to which the offender is liable is unlimited, but shall not be excessive.

Sentence of imprisonment in default of payment of fine.

64. In every case in which an offender s sentenced to a fine, it shall be competent to the Court which sentences such offender to direct by the sentence that, in default of payment of the fine, the offender shall suffer imprisonment for a certain term, which imprisonment shall be in excess of any other imprisonment to which he may have been sentenced or to which he may be liable under a commutation of a sentence.

Limit of term of imprisonment for default in payment of fine, when the offence is punishable with imprisonment as well as fine.

65. The term for which the Court directs the offender to be imprisoned in default of payment of a fine, shall not exceed one-fourth of the term of imprisonment which is the maximum fixed for the offence, if the offence be punishable with imprisonment as well as fine.

Description of imprisonment for such default.

66. The imprisonment which the Court imposes in default of payment of a fine may be of any description to which the offender might have been sentenced for the offence.

Term of imprisonment for default in payment of fine, when the offence is punishable with fine only.

67. If the offence be punishable with fine only, the term for which the Court directs the offender to be imprisoned, in default of payment of fine, shall not exceed the following scale, that is to say, for any term not exceeding two months when the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months when the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case.

Such imprisonment to terminate upon payment of the fine.

68. The imprisonment which is imposed in default of payment of a fine shall terminate whenever that fine is either paid or levied by process of law.

Termination of such imprisonment upon payment of proportional part of fine.

69. If, before the expiration of the term of imprisonment fixed in default of payment, such a proportion of the fine be paid or levied, that term of imprisonment suffered in default of payment is not less than proportional to the part of the fine still unpaid, the imprisonment shall terminate.

Illustration.

A is sentenced to a fine of one hundred Rupees and to four months' imprisonment in default of payment. Here, if seventy-five Rupees of the fine be paid or levied before the expiration of one month of the imprisonment, A will be discharged as soon as the first month has expired. If seventy-five Rupees be paid or levied at the time of the expiration of the first month, or at any later time while A continues in imprisonment, A will be immediately discharged. If fifty Rupees of the fine be paid or levied before the expiration of two months of the imprisonment, A will be discharged as soon as the two months are completed. If fifty Rupees be paid or levied at the time at the expiration of those two months, or at any later time while A continues in imprisonment, A will be immediately discharged.

Fine may be levied within six years or at any time during the term of imprisonment.

70. The fine, or any part thereof which remains unpaid, may be levied at any time within six years after the passing of the sentence, and if, under the sentence, the offender be liable to

imprisonment for a longer period than six years, then at any time previous to the expiration of that period; and the death of the offender does not discharge from the liability any property, which would, after his death, be legally liable for his debts.

Death of offender not to discharge his property from liability.

71. Where any thing which is an offence is made up of parts, any of which parts is itself an offence, the offender shall not be punished with the punishment of more than one of such his offences, unless it be so expressly provided.

Limit of punishment of offence which is made up of several offences.

Illustrations.

(a) A gives Z fifty strokes with a stick. Here A may have committed the offence of voluntarily causing hurt to Z by the whole beating, and also by each of the blows which make up the whole beating. If A were liable to punishment for every blow, he might be imprisoned for fifty years, one for each blow. But he is liable only to one punishment for the whole beating.

(b) But if, while A is beating Z, Y interferes, and A intentionally strikes Y, here, as a blow given to Y is no part of the act whereby A voluntarily causes hurt to Z, A is liable to one punishment for voluntarily causing hurt to Z, and to another for the blow given to Y.

72. In all cases in which judgment is given, that a person is guilty of one of several offences specified in the judgment, but that it is doubtful of which of these offences he is guilty, the offender shall be punished for the offence for which the lowest punishment is provided, if the same punishment is not provided for all.

Punishment of a person found guilty of one of several offences, the judgment stating that it is doubtful of which.

73. Whenever any person is convicted of an offence for which, under this Code, the Court has power to sentence him to rigorous imprisonment, the Court may, by its sentence, order that the offender shall be kept in solitary confinement for any portion or portions of the imprisonment to which he is sentenced, not exceeding three months in the whole, according to the following scale, (that is to say)—

Solitary confinement.

A time not exceeding one month if the term of imprisonment shall not exceed six months.

A time not exceeding two months if the term of imprisonment shall exceed six months and be less than a year.

A time not exceeding three months if the term of imprisonment shall exceed one year.

Limit of solitary confinement.

74. In executing a sentence of solitary confinement, such confinement shall in no case exceed fourteen days at a time, with intervals between the periods of solitary confinement of not less duration than such periods, and when the imprisonment awarded shall exceed three months, the solitary confinement shall not exceed seven days in any one month of the whole imprisonment awarded, with intervals between the periods of solitary confinement of not less duration than such periods.

Punishment of persons convicted, after a previous conviction, of an offence punishable with three years' imprisonment.

75. Whoever, having been convicted of an offence punishable under Chapter XII. or Chapter XVII. of this Code with imprisonment of either description for a term of three years or upwards, shall be guilty of any offence punishable under either of those Chapters with imprisonment of either description for a term of three years or upwards, shall be subject for every such subsequent offence to transportation for life, or to double the amount of punishment to which he would otherwise have been liable for the same; provided that he shall not in any case be liable to imprisonment for a term exceeding ten years.

CHAPTER IV.

GENERAL EXCEPTIONS.

76—81. Nothing is an offence which is done by obligation of law, or in the *bonâ fide* belief of being under such obligation, nor (77) which is done by a judge acting judicially and *bonâ fide*; nor (78) which is done *bonâ fide* in execution of an unreversed judgment; nor (79) which is done in the *bonâ fide*, but mistaken belief of its being justified by law, the mistake being of fact and not of law; nor (80) which is done by accident or misfortune only; nor (81) which, though harmful, is done principally for the purpose of preventing other harm, &c., under justifiable circumstances.

82—86. Nothing is an offence which is done by a child under 7 years, or (83) above 7 and under 12, if of insufficient understanding to know the character of the act, or (84) which is done by a person of unsound mind and not conscious of the nature of the act, or (85) by a person in the same state and mind induced by involuntary intoxication; but (86) intoxication, if voluntary, shall not excuse.

87—89. To cause death or grievous hurt, by means not intended or not likely to have that effect, or likely, but consented to, &c., whether (88) the consent be express or implied, if the means are used in good faith, is not an offence, and (89) in case of infant under twelve and of person of unsound mind, if done for infant's or insane's benefit, the consent of guardian or keeper shall avail; but (1) not to excuse the intentional causing of death, (2 and 3) nor the risking death, except to prevent death, &c., nor (4) to excuse the abetment of any non-excepted act.

90—91. Consent under fear, or under misconception, &c., or by person of unsound mind or under intoxication, or by infant under twelve, not to avail as consent to excuse, under circumstances specified; and further (91) the exceptions in 87, 88 and 89 are not to extend to offences against positive law.

92. If consent would excuse, the want of it is not to constitute that an offence which is done in good faith under circumstances specified; but (1) this rule not to apply to intentional killing or attempting to kill, or (2 and 3) to doing what is likely to kill, &c., or (4) to the abetment of any offence. Explanation of word "benefit."

93. Communication made in good faith, and for benefit of person to whom made, is not an offence by reason of its consequences merely.

94. Offences committed under threats of nature described to be excused, except homicide and offences against the State. Explanations.

95. Harm not to be deemed any offence, if so slight that person of ordinary sense and temper would not complain of it.

Act done by a person bound, or by mistake of fact believing himself bound by law.

76. Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact, and not by reason of a mistake of law, in good faith believes himself to be, bound by law to do it.

Illustrations.

(a) A, a soldier, fires on a mob by the order of his superior officer, in conformity with the commands of the law. A has committed no offence.

(b) A, an officer of a Court of Justice, being ordered by that Court to arrest Y, and, after due enquiry, believing Z to be Y, arrests Z. A has committed no offence.

Act of Judge when acting judicially.

77. Nothing is an offence which is done by a Judge when acting judicially in the exercise of any power which is, or which in good faith he believes to be, given to him by law.

Act done pursuant to the judgment or order of a Court of Justice.

78. Nothing which is done in pursuance of, or which is warranted by the judgment or order of a Court of Justice, if done whilst such judgment or order remains in force, is an offence, notwith-

standing the Court may have had no jurisdiction to pass such judgment or order, provided the person doing the act, in good faith believes that the Court had such jurisdiction.

Act done by a person justified or by mistake of fact believing himself justified by law.

79. Nothing is an offence which is done by any person who is justified by law, or who, by reason of a mistake of fact and not by reason of a mistake of law, in good faith believes himself to be justified by law in doing it.

Illustration.

A sees Z commit what appears to A to be a murder. A, in the exercise, to the best of his judgment, exerted in good faith, of the power which the law gives to all persons of apprehending murderers in the fact, seizes Z, in order to bring Z before the proper authorities. A has committed no offence, though it may turn out that Z was acting in self-defence.

Accident in the doing of a lawful act.

80. Nothing is an offence which is done by accident or misfortune and without criminal intention or knowledge in the doing of a lawful act in a lawful manner by lawful means and with proper care and caution.

Illustration.

A is at a work with a hatchet; the head flies off and kills a man who is standing by. Here, if there was no want of proper caution on the part of A, his act is excusable and not an offence.

Act likely to cause harm but done without a criminal intent and to prevent other harm.

81. Nothing is an offence merely by reason of its being done with the knowledge that it is likely to cause harm, if it be done without any criminal intention to cause harm, and in good faith for the purpose of preventing or avoiding other harm to person or property.

Explanation.—It is a question of fact in such a case whether the harm to be prevented or avoided was of such a nature, and so imminent as to justify or excuse the risk of doing the act with the knowledge that it was likely to cause harm.

Illustrations.

(a.) A, the Captain of a Steam Vessel, suddenly and without any fault or negligence on his part, finds himself in such a position that, before he can stop his vessel, he must inevitably run down a boat B with 20 or 30 passengers on board, unless he changes the course of his vessel, and that, by changing his course, he must incur risk of running down a boat C with only 2 passengers on board, which he may possibly clear. Here, if A alters his course without any intention to run down the boat C, and in good faith for the purpose of avoiding the danger to the passengers in the boat B, he is not

guilty of an offence, though he may run down the boat C by doing an act which he knew was likely to cause that effect, if it be found as a matterof fact that the danger which he intended to avoid was such as to excuse him in incurring the risk of running down the boat C.

(b) A in a great fire pulls down houses in order to prevent the conflagration from spreading. He does this with the intention in good faith of saving human life or property. Here, if it be found that the harm to be prevented was of such a nature and so imminent as to excuse A's act, A is not guilty of the offence.

Act of a child under 7 years of age.

82. Nothing is an offence which is done by a child under seven years of age.

Act of a child above 7 and under 12 years of age, who has not sufficient maturity of understanding.

83. Nothing is an offence which is done by a child above seven years of age and under twelve, who has not attained sufficient maturity of understanding to judge of the nature and consequences of his conduct on that occasion.

Act of a person of unsound mind.

84. Nothing is an offence which is done by a person who, at the time of doing it, by reason of unsoundness of mind, is incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law.

Act of a person incapable of judgment by reason of intoxication caused against his will.

85. Nothing is an offence which is done by a person who, at the time of doing it, is, by reason of intoxication, incapable of knowing the nature of the act, or that he is doing what is either wrong or contrary to law; provided that the thing which intoxicated him was administered to him without his knowledge or against his will.

Offence requiring a particular intent or knowledge committed by one who is intoxicated.

86. In cases where an act done is not an offence, unless done with a particular knowledge or intent, a person who does the act in a state of intoxication, shall be liable to be dealt with as if he had the same knowledge as he would have had if he had not been intoxicated, unless the thing which intoxicated him was administered to him without his knowledge or against his will.

Act not intended and not known to be likely to cause death or grievous hurt, done by consent.

87. Nothing which is not intended to cause death or grievous hurt, and which is not known by the doer to be likely to cause death or grievous hurt, is an offence by reason of any harm which it may cause or be intended by the doer to cause, to any person above

eighteen years of age, who has given consent, whether express or implied, to suffer that harm; or by reason of any harm which it may be known by the doer to be likely to cause to any such person who has consented to take the risk of that harm.

Illustration.

A and Z agree to fence each other for amusement. This agreement implies the consent of each to suffer any harm which, in the course of such fencing, may be caused without foul play; and if A, while playing fairly, hurts Z, A commits no offence.

Act not intended to cause death, done by consent in good faith for the benefit of a person.

88. Nothing which is not intended to cause death, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to any person for whose benefit it is done in good faith, and who has given a consent, whether express or implied, to suffer that harm, or to take the risk of that harm.

Illustration.

A, a Surgeon, knowing that a particular operation is likely to cause the death of Z, who suffers under a painful complaint, but not intending to cause Z's death, and intending, in good faith, Z's benefit, performs that operation on Z, with Z's consent. A has committed no offence.

Act done in good faith for the benefit of a child or person of unsound mind by or by consent of guardian.

89. Nothing, which is done in good faith for the benefit of a person under twelve years of age, or of unsound mind, by or by consent, either express or implied, of the guardian or other person having lawful charge of that person, is an offence by reason of any harm which it may cause, or be intended by the doer to cause, or be known by the doer to be likely to cause, to that person

Provisoes.

Provided—

First.—That this exception shall not extend to the intentional causing of death, or to the attempting to cause death.

Secondly.—That this exception shall not extend to the doing of any thing which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity.

Thirdly.—That this exception shall not extend to the voluntary causing of grievous hurt, or to the attempting to cause grievous

hurt, unless it be for the purpose of preventing death or grievous hurt, or the curing of any grievous disease or infirmity.

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustration.

A, in good faith, for his child's benefit, without his child's consent, has his child cut for the stone by a surgeon, knowing it to be likely that the operation will cause the child's death, but not intending to cause the child's death. A is within the exception, inasmuch as his object was the cure of the child.

Consent known to be given under fear or misconception.

90. A consent is not such a consent as is intended by any Section of this Code, if the consent is given by a person under fear of injury or under a misconception of fact, and if the person doing the act knows, or has reason to believe, that the consent was given in consequence of such fear or misconception—or

Consent of a child or person of unsound mind.

If the consent is given by a person who, from unsoundness of mind or intoxication, is unable to understand the nature and consequence of that to which he gives his consent; or, unless the contrary appears from the context, if the consent is given by a person who is under twelve years of age.

Acts which are offences independently of harm caused to the person consenting, are not within the the exceptions in Sections 87, 88, and 89.

91. The exceptions in Sections 87, 88, and 89 do not extend to acts which are offences independently of any harm which they may cause, or be intended to cause, or be known to be likely to cause, to the person giving the consent, or on whose behalf the consent is given.

Illustration.

Causing miscarriage (unless caused in good faith for the purpose of saving the life of the woman) is an offence independently of any harm which it may cause or be intended to cause to the woman. Therefore it is not an offence "by reason of such harm;" and the consent of the woman or of her guardian to the causing of such miscarriage, does not justify the act.

Act done in good faith for the benefit of a person without consent.

92. Nothing is an offence by reason of any harm which it may cause to a person, for whose benefit it is done in good faith, even without that person's consent, if the circumstances

are such that it is impossible for that person to signify consent, or if that person is incapable of giving consent, and has no guardian or other person in lawful charge of him from whom it is posssible to obtain consent, in time for the thing to be done with benefit. Provided—

Provisoes.

First.—That this exception shall not extend to the intentional causing of death, or the attempting to cause death.

Secondly.—That this exception shall not extend to the doing of any thing which the person doing it knows to be likely to cause death, for any purpose other than the preventing of death or grievous hurt, or the curing of any grievous disease or infirmity.

Thirdly.—That this exception shall not extend to the voluntary causing of hurt, or to the attempting to cause hurt, for any purpose other than the preventing of death or hurt.

Fourthly.—That this exception shall not extend to the abetment of any offence, to the committing of which offence it would not extend.

Illustrations.

(a) Z is thrown from his horse, and is insensible. A, a surgeon, finds that Z requires to be trepanned. A, not intending Z's death, but in good faith, for Z's benefit, performs the trepan before Z recovers his power of judging for himself. A has committed no offence.

(b) Z is carried off by a tiger. A fires at the tiger, knowing it to be likely that the shot may kill Z, but not intending to kill Z, and in good faith intending Z's benefit. A's ball gives Z a mortal wound. A has committed no offence.

(c) A, a Surgeon, sees a child suffer an accident which is likely to prove fatal unless an operation be immediately performed. There is not time to apply to the child's guardian. A performs the operation in spite of the entreaties of the child, intending, in good faith, the child's benefit. A has committed no offence.

(d) A is in a house which is on fire, with Z, a child. People below hold out a blanket. A drops the child from the house-top, knowing it to be likely that the fall may kill the child, but not intending to kill the child, and intending, in good faith, the child's benefit. Here, even if the child is killed by the fall, A has committed no offence.

Explanation.—Mere pecuniary benefit is not benefit within the meaning of Sections 88, 89 and 92.

93. No communication made in good faith is an offence by reason of any harm to the person to whom it is made for the benefit of that person.

Communication made in good faith.

Illustration.

A, a Surgeon, in good faith, communicates to a patient his opinion that he cannot live. The patient dies in consequence of the shock. A has committed no offence, though he knew it to be likely that the communication might cause the patient's death.

Act to which a person is compelled by threats.

94. Except murder and offences against the State punishable with death, nothing is an offence which is done by a person who is compelled to do it by threats, which, at the time of doing it, reasonably cause the apprehension that instant death to that person will otherwise be the consequence; provided the person doing the act did not of his own accord, or from a reasonable apprehension of harm to himself short of instant death, place himself in the situation by which he became subject to such constraint.

Explanation 1.—A person who, of his own accord, or by reason of a threat of being beaten, joins a gang of dacoits knowing their character, is not entitled to the benefit of this exception, on the ground of his having been compelled by his associates to do any thing that is an offence by law.

Explanation 2.—A person seized by a gang of dacoits, and forced, by threat of instant death, to do a thing which is an offence by law, for example, a smith compelled to take his tools and to force the door of a house for the dacoits to enter and plunder it, is entitled to the benefit of this exception.

Act causing slight harm.

95. Nothing is an offence by reason that it causes, or that it, is intended to cause, or that it is known to be likely to cause, any harm, if that harm is so slight that no person of ordinary sense and temper would complain of such harm.

OF THE RIGHT OF PRIVATE DEFENCE.

96—97. Right of private defence, as defined in the Code, is to excuse every act done in exercise of it, which right (97) is, (1) to defend one's own or other person's body, or property, subject to exceptions and qualifications described in the subsequent Sections.

98. The excuse of infancy, unsoundness of mind, &c., is not to impair the right of defence in person against whom the injury is directed.

99—101. The right of defence is not to be exercised against public servant acting in good faith, though wrongfully, except when his act causes

apprehension of death, &c., nor (2) against person acting by direction of such public servant; nor (3) in any case in which recourse could be had to the public authorities; and (4) the defence must not do unnecessary harm. Explanations. But (100) subject to these restrictions, the defence may extend to killing an assailant, who causes apprehension (1) of death; or (2) of grievous hurt; or (3) who intends to commit a rape; or (4) to gratify unnatural lust; or (5) to kidnap or abduct; or (6) to falsely and secretly imprison; and (101) except in these cases a person assailed may not kill his assailant.

102. The right of defence of the body commences with the apprehension of danger from the act attempted.

103–104. The right of defence of property is subject to same restriction and is of same extent, against (1) robbery; (2) house-breaking by night; (3) mischief by fire to human dwelling or place in use for custody of property; (4) theft, mischief, and house trespass when causing apprehension of death or grievous hurt, but for such right being exercised; but (104) in case of theft, mischief, and criminal trespass not of this description, the right of defence must not be exercised to extent of causing death, but it may to extent of any other harm.

105. The right of defence of property commences with the reasonable apprehension of danger, and continues (2) till the thief has run away, or the public authorities are on the spot, or the property has been recovered; and (3) as long as the robber causes or attempts to cause death, &c., or so long as the fear of death, &c. continues, and (4) so long as the criminal trespass continues; and (5) in case of house-breaking so long as the house trespass continues.

106. The right of defence may be exercised, though it puts to risk an innocent person, if it is defence against murder or the apprehension of murder.

Nothing done in private defence is an offence.

96. Nothing is an offence which is done in the exercise of the right of private defence.

Right and private defence of the body and of property.

97. Every person has a right, subject to the restrictions contained in Section 99, to defend—

First.—His own body, and the body of any other person, against any offence affecting the human body.

Secondly.—The property, whether moveable or immoveable, of himself or of any other person, against any act which is an offence falling under the definition of theft, robbery, mischief, or criminal trespass, or which is an attempt to commit theft, robbery, mischief, or criminal trespass.

Right of private defence against the act of a person of unsound mind, &c.

98. When an act, which would otherwise be a certain offence is not that offence, by reason of the youth, the want of maturity of understanding, the unsoundness of mind, or the intoxication of the person doing that act, or by reason of any misconception on the part of that person, every person has the same right of private defence against that act which he would have if the act were that offence.

Illustrations.

(a) Z, under the influence of madness, attempts to kill A. Z is guilty of no offence. But A has the same right of private defence which he would have if Z were sane.

(b) A enters by night a house which he is legally entitled to enter. Z, in good faith, taking A for a house-breaker, attacks A. Here Z, by attacking A under this misconception, commits no offence. But A has the same right of private defence against Z, which he would have if A were not acting under that misconception.

Acts against which there is no right of private defence.

99. *First.*—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by a public servant acting in good faith under color of his office, though that act may not be strictly justifiable by law.

Second.—There is no right of private defence against an act which does not reasonably cause the apprehension of death or of grievous hurt, if done, or attempted to be done, by the direction of a public servant acting in good faith under color of his office, though that direction may not be strictly justifiable by law.

Third.—There is no right of private defence in cases in which there is time to have recourse to the protection of the public authorities.

Extent to which the right may be exercised.

Fourth.—The right of private defence in no case extends to the inflicting of more harm than it is necessary to inflict for the purpose of defence.

Explanation 1.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by a public

servant as such, unless he knows, or has reason to believe, that the person doing the act is such public servant.

Explanation 2.—A person is not deprived of the right of private defence against an act done, or attempted to be done, by the direction of a public servant, unless he knows, or has reason to believe, that the person doing the act is acting by such direction, or unless such person states the authority under which he acts, or, if he has authority in writing, unless he produces such authority, if demanded.

When the right of private defence of the body extends to causing death.

100. The right of private defence of the body extends, under the restrictions mentioned in the last preceding Section, to the voluntary causing of death or of any other harm to the assailant, if the offence which occasions the exercise of the right be of any of the descriptions hereinafter enumerated, namely—

First.—Such an assault as may reasonably cause the apprehension that death will otherwise be the consequence of such assault—

Secondly.—Such an assault as may reasonably cause the apprehension that grievous hurt will otherwise be the consequence of such assault—

Thirdly.—An assault with the intention of committing rape—

Fourthly.—An assault with the intention of gratifying unnatural lust—

Fifthly.—An assault with intention of kidnapping or abducting—

Sixthly.—An assault with the intention of wrongfully confining a person, under circumstances which may reasonably cause him to apprehend that he will be unable to have recourse to the public authorities for his release.

When such right extends to causing any harm other than death.

101. If the offence be not of any of the descriptions enumerated in the last preceding Section, the right of private defence of the body does not extend to the voluntary causing of death to the assailant, but does extend, under the restrictions mentioned in Section 99 to the voluntary causing to the assailant of any harm other than death.

Commencement and continuance of the right of private defence of the body.

102. The right of private defence of the body commences as soon as a reasonable apprehension of danger to the body arises from an attempt or threat to commit the offence, though the offence may not have been committed; and it continues as long as such apprehension of danger to the body continues.

When the right of private defence of property extends to causing death.

103. The right of private defence of property extends, under the restrictions mentioned in Section 99, to the voluntary causing of death or of any other harm to the wrong-doer, if the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right, be an offence of any of the descriptions hereinafter enumerated, namely :—

First.—Robbery.

Secondly.—House-breaking by night.

Thirdly.—Mischief by fire committed on any building, tent, or vessel, which building, tent, or vessel is used as a human dwelling, or as a place for the custody of property.

Fourthly.—Theft, mischief, or house-trespass, under such circumstances as may reasonably cause apprehension that death or grievous hurt will be the consequence, if such right of private defence is not exercised.

When such right extends to causing any harm other than death.

104. If the offence, the committing of which, or the attempting to commit which, occasions the exercise of the right of private defence, be theft, mischief, or criminal trespass, not of any of the descriptions enumerated in the last preceding Section, that right does not extend to the voluntary causing of death, but does extend, subject to the restrictions mentioned in Section 99, to the voluntary causing to the wrong-doer or any harm other than death.

Commencement and continuance of the right of private defence of property.

105. *First.*—The right of private defence of property commences when a reasonable apprehension of danger to the property commences.

Second.—The right of private defence of property against theft continues till the offender has effected his retreat with the

property, or the assistance of the public authorities is obtained, or the property has been recovered.

Third.—The right of private defence of property against robbery continues as long as the offender causes or attempts to cause to any person death or hurt or wrongful restraint, or as long as the fear of instant death, or of instant hurt, or of instant personal restraint continues.

Fourth.—The right of private defence of property against criminal trespass or mischief continues as long as the offender continues in the commission of criminal trespass or mischief.

Fifth.—The right of private defence of property against house-breaking by night continues as long as the house-trespass which has been begun by such house-breaking continues.

Right of private defence against a deadly assault when there is risk of harm to an innocent person.

106. If, in the exercise of the right of private defence against an assault which reasonably causes the apprehension of death, the defender be so situated that he cannot effectually exercise that right without risk of harm to an innocent person, his right of private defence extends to the running of that risk.

Illustration.

A is attacked by a mob who attempt to murder him. He cannot effectually exercise his right of private defence without firing on the mob, and he cannot fire without risk of harming young children who are mingled with the mob. A commits no offence if by so firing he harms any of the children.

CHAPTER V.

OF ABETMENT.

107. Abetting is, (1) instigating, (2) conspiracy followed up by overt act, (3) aiding by act done. Explanations.

108. Abetting an offence is an offence, though the abetted person may not be liable. Explanations.

109. Abetting an offence is to be punished in same manner as the offence, unless otherwise provided against. Explanation.

110—113. If the intention of the abettor differs from that of the abetted, the abettor is to be punished for the offence intended; and (111) the abetted shall, for an offence done by the abettor, be punished for the offence, though it may not have been according to his intention; and (112) shall also

be liable for his own offence, and (113) shall be liable for all the consequences of his abetment (instigation), &c., if such consequence was probable.

114. Abetting an offence, shall be punished as the principal offence, if the person abetting is present at its commission.

115—116. A person who abets the commission of an offence punishable with death or transportation, but which is not committed, shall be liable to imprisonment of either kind, and fine; and (116) if the offence is punishable with imprisonment, and is not committed, shall be liable to punishment on a proportionate scale specified, which is increased in case of offence by public servant.

117. If a person abets the commission of an offence by the public generally, &c., he shall be liable to imprisonment of either kind, &c., or fine, or both.

118—120. A person voluntarily concealing with intent to facilitate commission, the existence of a design to commit an offence punishable with death or transportation for life, or (119 & 120) a design to commit any offence, shall be liable in the first case to imprisonment, &c., and in the second case to punishment on a graduated scale.

Abetment of a thing.

107. A person abets the doing of a thing who—

First.—Instigates any person to do that thing; or—

Secondly.—Engages with one more other person or persons in any conspiracy for the doing of that thing, if an act or illegal omission takes place in pursuance of that conspiracy, and in order to the doing of that thing; or—

Thirdly.—Intentionally aids, by any act or illegal omission, the doing of that thing.

Explanation 1.—A person who, by wilful misrepresentation or by wilful concealment of a material fact which he is bound to disclose, voluntarily causes or procures, or attempts to cause or procure, a thing to be done, is said to instigate the doing of that thing.

Illustration.

A, a public officer, is authorized by a warrant from a Court of Justice to apprehend Z. B, knowing that fact and also that C is not Z, wilfully represents to A that C is Z, and thereby intentionally causes A to apprehend C. Here B abets by instigation the apprehension of C.

Explanation 2.—Whoever, either prior to or at the time of the commission of an act, does any thing in order to facilitate

the commission of that act, and thereby facilitates the commission thereof, is said to aid the doing of that act.

Abettor.

108. A person abets an offence who abets either the commission of an offence, or the commission of an act which would be an offence, if committed by a person capable by law of committing an offence with the same intention or knowledge as that of the abettor.

Explanation 1.—The abetment of the illegal omission of an act may amount to an offence, although the abettor may not himself be bound to do that act.

Explanation 2.—To constitute the offence of abetment, it is not necessary that the act abetted should be committed, or that the effect requisite to constitute the offence should be caused.

Illustration.

(a) A instigates B to murder C. B refuses to do so. A is guilty of abetting B to commit murder.

(b) A instigates B to murder D. B, in pursuance of the instigation, stabs D. D recovers from the wound. A is guilty of instigating B to commit murder.

Explanation 3.—It is not necessary that the person abetted should be capable by law of committing an offence, or that he should have the same guilty intention or knowledge as that of the abettor, or any guilty intention or knowledge.

Illustrations.

(a) A, with a guilty intention, abets a child or a lunatic to commit an act which would be an offence, if committed by a person capable by law of committing an offence, and having the same intention as A. Here A, whether the act be committed or not, is guilty of abetting an offence.

(b) A, with the intention of murdering Z, instigates B, a child under seven years of age, to do an act which causes Z's death. B, in consequence of the abetment, does the act, and thereby causes Z's death. Here, though B was not capable by law of committing an offence, A is liable to be punished in the same manner as if B had been capable by law of committing an offence, and had committed murder, and he is therefore subject to the punishment of death.

(c) A instigates B to set fire to a dwelling-house. B, in consequence of the unsoundness of his mind, being incapable of knowing the nature of the act, or that he is doing what is wrong or contrary to law, sets fire to the house in consequence of A's instigation. B has committed no offence, but A is guilty of abetting the offence of setting fire to a dwelling-house, and is liable to the punishment provided for that offence.

(d) A, intending to cause a theft to be committed, instigates B to take property belonging to Z out of Z's possession. A induces B to believe that the property belongs to A. B takes the property out of Z's possession, in good faith, believing it to be A's property. B, acting under this misconception, does not take dishonestly, and therefore does not commit theft. But A is guilty of abetting theft, and is liable to the same punishment as if B had committed theft.

Explanation 4.—The abetment of an offence being an offence, the abetment of such an abetment is also an offence.

Illustration.

A instigates B to instigate C to murder Z. B accordingly instigates C to murder Z, and C commits that offence in consequence of B's instigation, B is liable to be punished for his offence with the punishment for murder, and as A instigated B to commit the offence, A is also liable to the same punishment.

Explanation 5.—It is not necessary to the commission of the offence of abetment by conspiracy that the abettor should concert the offence with the person who commits it. It is sufficient if he engage in the conspiracy in pursuance of which the offence is committed.

Illustration.

A concerts with B a plan for poisoning Z. It is agreed that A shall administer the poison. B then explains the plan to C, mentioning that a third person is to administer the poison, but without mentioning A's name. C agrees to procure the poison, and procures and delivers it to B for the purpose of its being used in the manner explained. A administers the poison. Z dies in consequence. Here, though A and C have not conspired together, yet C has been engaged in the conspiracy, in pursuance of which Z has been murdered. C has therefore committed the offence defined in this Section and is liable to the punishment for murder.

Punishment of abetment if the act abetted is committed in consequence and where no express provision is made for its punishment.

109. Whoever abets any offence shall, if the act abetted is committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment be punished with the punishment provided for the offence.

Explanation.—An act or offence is said to be committed in consequence of abetment, when it is committed in consequence of

the instigation, or in pursuance of the conspiracy, or with the aid which constitutes the abetment.

Illustrations.

(a) A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B accepts the bribe. A has abetted the offence defined in Section 161.

(b) A instigates B to give false evidence. B, in consequence of the instigation, commits that offence. A is guilty of abetting that offence, and is liable to the same punishment as B.

(c) A and B conspire to poison Z. A, in pursuance of the conspiracy, procures the poison and delivers it to B, in order that he may administer it to Z. B, in pursuance of the conspiracy, administers the poison to Z in A's absence nd thereby causes Z's death. Here B is guilty of murder. A is guilty of abetting that offence by conspiracy, and is liable to the punishment for murder.

Punishment of abetment if the person abetted does the act with a different intention from that of the abettor.

110. Whoever abets the commission of an offence shall, if the person abetted does the act with a different intention or knowledge from that of the abettor, be punished with the punishment provided for the offence which would have been committed if the act had been done with the intention or knowledge of the abettor and with no other.

Liability of abettor when one act is abetted and a different act is done.

111. When an act is abetted and a different act is done, the abettor is liable for the act done, in the same manner and to the same extent as if he had directly abetted it; provided the act done was a probable consequence of the abetment, and was committed under the influence of the instigation, or with the aid or in pursuance of the conspiracy which constituted the abetment.

Proviso.

Illustrations.

(a) A instigates a child to put poison into the food of Z, and gives him poison for that purpose. The child, in consequence of the instigation, by mistake puts the poison into the food of Y, which is by the side of that of Z. Here, if the child was acting under the influence of A's instigation and the act done was under the circumstances a probable consequence of the abetment A is liable in the same manner and to the same extent as if he had instigated the child to put the poison into the food of Y.

(b) A instigates B to burn Z's house. B sets fire to the house and at the same time commits theft of property there. A, though guilty of

abetting the burning of the house, is not guilty of abetting the theft; for the theft was a distinct act and not a probable consequence of the burning.

(c) A instigates B and C to break into an inhabited house at midnight for the purpose of robbery, and provides them with arms for that purpose. B and C break into the house, and being resisted by Z, one of the inmates, murder Z. Here, if that murder was the probable consequence of the abetment, A is liable to the punishment provided for murder.

Abettor when liable to cumulative punishment for act abetted and for act done.

112. If the act for which the abettor is liable under the last preceding Section is committed in addition to the act abetted and constitutes a distinct offence, the abettor is liable to punishment for each of the offences.

Illustration.

A instigates B to resist by force a distress made by a public servant. B, in consequence, resists that distress. In offering the resistance, B voluntarily causes grievous hurt to the officer executing the distress. As B has committed both the offence of resisting the distress and the offence of voluntarily causing grievous hurt, B is liable to punishment for both these offences; and if A knew that B was likely voluntarily to cause grievous hurt in resisting the distress, A will also be liable to punishment for each of the offences.

Liability of abettor for an effect caused by the act abetted different from that intended by the abettor.

113. When an act is abetted with the intention on the part of the abettor of causing a particular effect, and an act for which the abettor is liable in consequence of the abetment, causes a different effect from that intended by the abettor, the abettor is liable for the effect caused, in the same manner and to the same extent as if he had abetted the act with the intention of causing that effect; provided he knew that the act abetted was likely to cause that effect.

Illustration.

A instigates B to cause grievous hurt to Z. B, in consequence of the instigation, causes grievous hurt to Z. Z dies in consequence. Here, if A knew that the grievous hurt abetted was likely to cause death, A is liable to be punished with the punishment provided for murder.

Abettor present when offence is committed.

114. Whenever any person, who, if absent, would be liable to be punished as an abettor, is present when the act or offence for which he would be punishable in consequence of the abetment is committed, he shall be deemed to have committed such act or offence.

115. Whoever abets the commission of an offence punishable with death or transportation for life, shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if any act for which the abettor is liable in consequence of the abetment, and which causes hurt to any person, is done, the abettor shall be liable to imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Abetment of an offence punishable with death or transportation for life if the offence be not committed in consequence of the abetment.

If an act which causes harm be done in consequence of the abetment.

Illustration.

A instigates B to murder Z. The offence is not committed. If B had murdered Z, he would have been subject to the punishment of death or transportation for life. Therefore A is liable to imprisonment for a term which may extend to seven years and also to a fine; and if any hurt be done to Z, in consequence of the abetment, he will be liable to imprisonment for a term which may extend to fourteen years, and to fine.

116. Whoever abets an offence punishable with imprisonment shall, if that offence be not committed in consequence of the abetment, and no express provision is made by this Code for the punishment of such abetment, be punished with imprisonment of any description provided for that offence, for a term which may extend to one-fourth part of the longest term provided for that offence, or with such fine as is provided for that offence, or with both; and if the abettor or the person abetted is a public servant, whose duty it is to prevent the commission of such offence, the abettor shall be punished with imprisonment of any description provided for that offence, for a term which may extend to one-half of the longest term provided for the offence, or with such fine as is provided for the offence, or with both.

Abetment of an offence punishable with imprisonment, if the offence be not committed in consequence of the abetment.

If the abettor or the person abetted be a public servant whose duty it is to prevent the offence.

Illustrations.

(*a*) A offers a bribe to B, a public servant, as a reward for showing A some favor in the exercise of B's official functions. B refuses to accept the bribe. A is punishable under this Section.

(b) A instigates B to give false evidence. Here, if B does not give false evidence, A has nevertheless committed the offence defined in this Section, and is punishable accordingly.

(c) A, a police officer, whose duty it is to prevent robbery, abets the commission of robbery. Here, though the robbery be not committed, A is liable to one-half of the longest term of imprisonment provided for that offence, and also to fine.

(d) B abets the commission of robbery by A, a police officer, whose duty it is to prevent that offence. Here, though the robbery be not committed, B is liable to one-half of the longest term of imprisonment provided for the offence of robbery, and also to fine.

Abetting the commission of an offence by the public or by more than ten persons.

117. Whoever abets the commission of an offence by the public generally, or by any number or class of persons exceeding ten, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A affixes in a public place a placard, instigating a sect consisting of more than ten members to meet at a certain time and place, for the purpose of attacking the members of an adverse sect, while engaged in a procession. A has committed the offence defined in this Section.

Concealing a design to commit an offence punishable with death or transportation for life.

118. Whoever, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of any offence punishable with death or transportation for life, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design shall, if that offence be committed, be punished with imprisonment of either description for a term which may extend to seven years; or, if the offence be not committed, with imprisonment of either description for a term which may extend to three years; and in either case shall also be liable to fine.

If the offence be committed.

If the offence be not committed.

Illustration.

A knowing that dacoity is about to be committed at B, falsely informs the Magistrate that a dacoity is about to be committed at C, a place in an opposite direction, and thereby misleads the Magistrate with intent to facilitate the commission of the offence. The dacoity is committed at B in pursuance of the design. A is punishable under this Section.

119. Whoever being a public servant, intending to facilitate, or knowing it to be likely that he will thereby facilitate, the commission of any offence, the commission of which it is his duty as such public servant to prevent, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment, of any description provided for the offence, for a term which may extend to one-half of the longest term of such imprisonment, or with such fine as is provided for that offence, or with both; or if the offence be punishable with death or transportation for life, with imprisonment of either description for a term which may extend to ten years; or, if the offence be not committed, shall be punished with imprisonment of any description provided for the offence for a term which may extend to one-fourth part of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

A public servant concealing a design to commit an offence which it is his duty to prevent.

If the offence be committed.

If the offence be punishable with death, &c.

If the offence be not committed.

Illustration.

A, an officer of police, being legally bound to give information of all designs to commit robbery which may come to his knowledge, and knowing that B designs to commit robbery, omits to give such information, with intent to facilitate the commission of that offence. Here A has by an illegal omission concealed the existence of B's design, and is liable to punishment according to the provision of this Section.

120. Whoever, intending to facilitate or knowing it to be likely that he will thereby facilitate the commission of an offence punishable with imprisonment, voluntarily conceals, by any act or illegal omission, the existence of a design to commit such offence, or makes any representation which he knows to be false respecting such design, shall, if the offence be committed, be punished with imprisonment of the description provided for the offence for a term which may extend to

Concealing a design to commit an offence punishable with imprisonment.

If the offence be committed.

one-fourth, and, if the offence be not committed, to one-eighth of the longest term of such imprisonment, or with such fine as is provided for the offence, or with both.

If not committed.

CHAPTER VI.

OF OFFENCES AGAINST THE STATE.

121. Waging, or attempting to wage war, or abetting, shall be punishable with death, or transportation for life, and absolute forfeiture of property.

122. Making preparations in manner specified with intention to wage war, &c., against the Queen, punishable with transportation, &c., or imprisonment of either kind, and absolute forfeiture of property.

123. Concealing the existence of design to wage war, with view to facilitate the offence, punishable with imprisonment of either kind, and fine.

124. Assaulting, or wrongfully restraining, &c., or wounding by means of criminal force, &c., the Governor-General, or Governor, &c., with intention to influence him in the exercise of his lawful powers, punishable with imprisonment of either kind, and fine.

125. Waging war against any Asiatic ally of the Queen, or attempting or abetting it, transportation for life and fine, or imprisonment of either kind, &c., and fine, or fine alone.

126. Committing depredation, or preparing to do so, on the territories of an ally, imprisonment of either kind, &c., and fine, and forfeiture of things used in committing the offence.

127. Receiving any property taken in the commission of such depredation, imprisonment of either kind, &c., and fine, &c.

128. Public servant, voluntarily allowing escape of State prisoner, liable to transportation, &c.

129. Public servant, negligently allowing State prisoner to escape, punishable with simple imprisonment, &c., and fine.

130. Knowingly aiding State prisoner to escape, or receiving him, &c., or offering resistance to re-capture, &c., punishable with transportation, &c., or imprisonment of either kind, &c., and fine. Explanation.

121. Whoever wages war against the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with death, or transportation for life, and shall forfeit all his property.

Waging or attempting to wage war, or abetting the waging of war against the Queen.

Illustrations.

(a) A joins an insurrection against the Queen, A has committed the offence defined in this Section.

(b) A in India abets an insurrection against the Queen's Government of Ceylon by sending arms to the insurgents, A is guilty of abetting the waging of war against the Queen.

Collecting arms, &c., with the intention of waging war against the Queen.

122. Whoever collects men, arms, or ammunition, or otherwise prepares to wage war, with the intention of either waging, or being prepared to wage war against the Queen, shall be punished with transportation for life, or imprisonment of either description for a term not exceeding ten years, and shall forfeit all his property.

Concealing with intent to facilitate a design to wage war.

123. Whoever by any act, or by any illegal omission, conceals the existence of a design to wage war against the Queen, intending by such concealment to facilitate, or knowing it to be likely that such concealment will facilitate the waging of such war, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Assaulting Governor-General, Governor, &c., with intent to compel or restrain the exercise of any lawful power.

124. Whoever, with the intention of inducing or compelling the Governor-General of India, or the Governor of any Presidency, or a Lieutenant-Governor, or a Member of the Council of the Governor-General of India, or of the Council of any Presidency, to exercise or refrain from exercising in any manner any of the lawful powers of such Governor-General, Governor, Lieutenant-Governor, or Member of Council, assaults or wrongfully restrains, or attempts wrongfully to restrain, or overawes by means of criminal force, or the show of criminal force, or attempts so to overawe such Governor-General, Governor, Lieutenant-Governor, or Member of Council, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

125. Whoever wages war against the Government of any Asiatic power in alliance or at peace with the Queen, or attempts to wage such war, or abets the waging of such war, shall be punished with transportation for life, to which fine may be added; or with imprisonment of either description for a term which may extend to seven years, to which fine may be added; or with fine.

Waging war against any Asiatic power in alliance with the Queen.

126. Whoever commits depredation, or makes preparations to commit depredation, on the territories of any power in alliance or at peace with the Queen, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine and to forfeiture of any property used or intended to be used in committing such depredation, or acquired by such depredation.

Committing depredation on the territories of any power at peace with the Queen.

127. Whoever receives any property, knowing the same to have been taken in the commission of any of the offences mentioned in Sections 125 and 126, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to be fined and to forfeiture of the property so received.

Receiving property taken by war or depredation mentioned in Sections 125 and 126

128. Whoever, being a public servant and having the custody of any State prisoner or prisoner of War, voluntarily allows such prisoner to escape from any place in which such prisoner is confined, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Public servant voluntarily allowing prisoner of State or War in his custody to escape.

129. Whoever, being a public servant and having the custody of any State prisoner or prisoner of War, negligently suffers such prisoner to escape from any place of confinement in which such prisoner is confined, shall be punished with simple imprisonment

Public servant negligently suffering prisoner of State or War in his custody to escape.

for a term which may extend to three years, and shall also be liable to fine.

Aiding escape of, rescuing, or harbouring such prisoner.

130. Whoever knowingly aids or assists any State prisoner or prisoner of War in escaping from lawful custody, or rescues, or attempts to rescue any such prisoner, or harbours or conceals any such prisoner who has escaped from lawful custody, or offers or attempts to offer any resistance to the re-capture of such prisoner, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A State prisoner, or prisoner of War, who is permitted to be at large on his parole within certain limits in British India, is said to escape from lawful custody if he goes beyond the limits within which he is allowed to be at large.

CHAPTER VII.

OF OFFENCES RELATING TO THE ARMY AND NAVY.

131—132. Abetting mutiny, attempting to seduce soldier, &c. from his allegiance, &c., punishable with transportation, &c., or imprisonment of either kind, &c., and fine, and (132) if the mutiny be committed, punishable with death or transportation for life or imprisonment of either kind, and fine.

133—134. Abetting an assault by soldier, &c., on superior officer, in the execution of his office, punishable with imprisonment of either kind, &c., and fine, and (134) if the assault be committed, with increased imprisonment of either kind, &c., and fine.

135—136. Abetting desertion in Army or Navy, and (136) harbouring known or suspected deserter, punishable with imprisonment of either kind, and fine.

137. Master of merchant vessel having deserter on board, through negligence, liable to fine.

138. Abetting act of insubordination by officer, &c., punishable with imprisonment of either kind, &c., or fine, or both.

139. But none of these punishments to be applied to persons subject to Articles of War in either Army or Navy.

140. Make believes, by simulated garb, &c., that a person is a soldier, &c., who is not one, punishable with imprisonment of either kind, or fine, or both.

131. Whoever abets the committing of mutiny by an officer, soldier, or sailor, in the Army or Navy of the Queen, or attempts to seduce any such officer, soldier, or sailor, from his allegiance or his duty, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetting mutiny or attempting to seduce a soldier or sailor from his duty.

132. Whoever abets the committing of mutiny by an officer, soldier, or sailor, in the Army or Navy of the Queen, shall, if mutiny be committed in consequence of that abetment, be punished with death or with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetment of mutiny, if mutiny is committed in consequence thereof.

133. Whoever abets an assault by an officer, soldier, or sailor, in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Abetment of an assault by a soldier or sailor on his superior officer, when in the execution of his office.

134. Whoever abets an assault by an officer, soldier, or sailor, in the Army or Navy of the Queen, on any superior officer being in the execution of his office, shall, if such assault be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Abetment of such assault, if the assault is committed.

135. Whoever abets the desertion of any officer, soldier, or sailor, in the Army or Navy of the Queen, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Abetment of the desertion of a soldier or sailor.

136. Whoever, except as hereinafter excepted, knowing or having reason to believe that an officer, soldier, or sailor, in the Army or Navy of the

Harbouring a deserter.

Queen, has deserted, harbours such officer, soldier, or sailor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour is given by a wife to her husband.

Deserter concealed on board merchant vessel through negligence of master.

137. The master or person in charge of a merchant vessel, on board of which any deserter from the Army or Navy of the Queen is concealed, shall, though ignorant of such concealment, be liable to a penalty not exceeding five hundred Rupees, if he might have known of such concealment, but for some neglect of his duty as such master or person in charge, or but for some want of discipline on board of the vessel.

Abetment of act of insubordination by a soldier or sailor.

138. Whoever abets what he knows to be an act of insubordination by an officer, soldier, or sailor, in the Army or Navy of the Queen, shall, if such act of insubordination be committed in consequence of that abetment, be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Person subject to Articles of War not punishable under this Code.

139. No person subject to any Articles of War for the Army or Navy of the Queen, or for any part of such Army or Navy, is subject to punishment under this Code for any of the offences defined in this Chapter.

Wearing the dress of a soldier.

140. Whoever, not being a soldier in the Military or Naval service of the Qeen, wears any garb, or carries any token resembling any garb or token used by such a soldier, with the intention that it may be believed that he is such a soldier, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

CHAPTER VIII.

OF OFFENCES AGAINST THE PUBLIC TRANQUILLITY.

141. Assembly of five or more persons is an unlawful assembly, if its common object be (1) to overawe by criminal force, or the show of it, the

Legislative or Executive Government, or any Governor or Public Servant as such; or (2) to resist legal process; or (3) to commit any criminal offence; or (4) by means of criminal force, or the show of it, to obtain possession or enjoyment of property; or (5) by same means to compel illegal act. Explanation.

142—145. By joining or continuing in an assembly, knowing it is unlawful, a person becomes a member of it, and (143) every member is punishable with imprisonment of either kind, &c., or fine, or both; or (144) if armed with deadly weapon, or weapon likely to cause death, with longer term of imprisonment, or fine, or both; and (145) any person joining or continuing in assembly after command to disperse, shall be liable to same punishment.

146—148. Force or violence used in any unlawful assembly by any one makes all guilty of rioting; and (147) rioting is punishable with imprisonment of either kind, &c., or fine, or both; (148) a person armed with deadly weapon, &c., guilty of rioting, is punishable with increased term.

149. Every member of an unlawful assembly, in which an offence is committed by any one in pursuit of the common object, is to be deemed guilty of that offence, &c.

150. Any person who hires, &c., any one to join or become a member of an unlawful assembly, shall be punishable as a member of the assembly, and for any act of his hireling in the assembly.

151—152. Knowingly joining, &c., any assembly of five or more persons likely to disturb the public peace, after it has been commanded to disperse, punishable with imprisonment of either kind, &c., or fine, or both. Explanation. And (152) any person obstructing, &c. public servant in endeavoring to disperse an unlawful assembly, or to suppress a riot or affray, or attempting to use criminal force against public servant, shall be liable to increased punishment.

153. Whoever malignantly, &c., by an illegal act, gives a provocation for rioting, shall, if rioting ensue, be punishable with imprisonment of either kind, &c., or fine, or both.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the place in which, &c., shall be liable to fine, if he, knowing it has taken place, does not give notice, &c., or if having reason to expect it, he does not use means to prevent it, &c.

155—156. If riot is committed in the interest, &c., of owner or occupier of any land, or if owner or occupier has accepted any benefit from such riot, such owner or occupier shall be punishable with fine, if having reason to expect such riot he did not use means to prevent it; and (156) the agent or manager for the owner, &c., shall, under the like conditions, be liable to same punishment (fine.)

157. Harbouring, receiving, assembling in any house, &c., any persons, knowing that they are engaged, &c., to join, &c., an unlawful assembly, punishable with imprisonment of either kind, &c., or fine, or both.

158. Persons hired, &c., for any of the objects detailed in Section 141, shall be punishable with imprisonment of either kind, or fine, or both—to be increased if armed.

159—160. Two or more, fighting in a public place, and disturbing the peace, commit an affray; and (160) persons committing an affray, punishable with imprisonment of either kind, or fine, or both.

Unlawful assembly.

141. An assembly of five or more persons is designated an "unlawful assembly," if the common object of the persons composing that assembly, is—

First.—To overawe by criminal force, or show of criminal force, the Legislative or Executive Government of India, or the Government of any Presidency, or any Lieutenant-Governor, or any Public Servant in the exercise of the lawful power of such Public Servant; or

Second.—To resist the execution of any law, or of any legal process; or

Third.—To commit any mischief or criminal trespass, or other offence; or

Fourth.—By means of criminal force, or show of criminal force, to any person, to take or obtain possession of any property, or to deprive any person of the enjoyment of a right of way, or of the use of water or other incorporeal right of which he is in possession or enjoyment, or to enforce any right or supposed right; or

Fifth.—By means of criminal force, or show of criminal force, to compel any person to do what he is not legally bound to do, or to omit to do what he is legally entitled to do.

Explanation.—An assembly which was not unlawful when it assembled, may subsequently become an unlawful assembly.

Being a member of an unlawful assembly.

142. Whoever, being aware of facts which render any assembly an unlawful assembly, intentionally joins that assembly, or continues in it, is said to be a member of an unlawful assembly.

Punishment.

143. Whoever is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

144. Whoever, being armed with any deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, is a member of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining an unlawful assembly armed with any deadly weapon.

145. Whoever joins or continues in an unlawful assembly, knowing that such unlawful assembly has been commanded in the manner prescribed by law to disperse, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Joining or continuing in an unlawful assembly, knowing that it has been commanded to disperse.

146. Whenever force or violence is used by an unlawful assembly, or by any member thereof, in prosecution of the common object of such assembly, every member of such assembly is guilty of the offence of rioting.

Force used by one member in prosecution of common object.

147. Whoever is guilty of rioting, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for rioting.

148. Whoever is guilty of rioting, being armed with a deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Rioting, armed with a deadly weapon.

149. If an offence is committed by any member of an unlawful assembly in prosecution of the common object of that assembly, or such as the members of that assembly knew to be likely to be committed in prosecution of that object, every person who, at the time of the committing of that offence, is a member of the same assembly, is guilty of that offence.

Every member of an unlawful assembly to be deemed guilty of any offence committed in prosecution of common object.

150. Whoever hires or engages, or employs, or promotes, or connives at the hiring, engagement, or employment of any person to join or become a member of any unlawful assembly, shall be

Hiring or conniving at hiring of persons to join an unlawful assembly.

punishable as a member of such unlawful assembly, and for any offence which may be committed by any such person as a member of such unlawful assembly, in pursuance of such hiring, engagement, or employment, in the same manner as if he had been a member of such unlawful assembly, or himself had committed such offence.

Knowingly joining or continuing in any assembly of five or more persons, after it has been commanded to disperse.

151. Whoever knowingly joins or continues in any assembly of five or more persons likely to cause a disturbance of the public peace, after such assembly has been lawfully commanded to disperse, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Explanation.—If the assembly is an unlawful assembly within the meaning of Section 141, the offender will be punishable under Section 145.

Assaulting or obstructing public servant when suppressing riot, &c.

152. Whoever assaults or threatens to assault, or obstructs or attempts to obstruct, any public servant in the discharge of his duty as such public servant, in endeavoring to disperse an unlawful assembly, or to suppress a riot or affray, or uses, or threatens, or attempts to use criminal force to such public servant, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Wantonly giving provocation, with intent to cause riot.

153. Whoever malignantly or wantonly, by doing any thing which is illegal, gives provocation to any person, intending or knowing it to be likely that such provocation will cause the offence of rioting to be committed, shall, if the offence of rioting be committed in consequence of such provocation, be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both; and if the offence of rioting be not committed, with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

If rioting be committed.

If not committed.

154. Whenever any unlawful assembly or riot takes place, the owner or occupier of the land upon which such unlawful assembly is held, or such riot is committed, and any person having or claiming an interest in such land, shall be punishable with fine not exceeding one thousand Rupees, if he or his agent or manager, knowing that such offence is being or has been committed, or having reason to believe it is likely to be committed, do not give the earliest notice thereof in his or their power to the principal officer at the nearest Police Station, and do not, in the case of his or their having reason to believe that it was about to be committed, use all lawful means in his or their power to prevent it, and in the event of its taking place, do not use all lawful means in his or their power to disperse or suppress the riot or unlawful assembly.

Owner or occupier of land on which an unlawful assembly is held.

155. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, such person shall be punishable with fine, if he or his agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not respectively use all lawful means in his or their power to prevent such assembly or riot from taking place, and for suppressing and dispersing the same.

Liability of person for whose benefit a riot is committed.

156. Whenever a riot is committed for the benefit or on behalf of any person who is the owner or occupier of any land respecting which such riot takes place, or who claims any interest in such land, or in the subject of any dispute which gave rise to the riot, or who has accepted or derived any benefit therefrom, the agent or manager of such person shall be punishable with fine, if such agent or manager, having reason to believe that such riot was likely to be committed, or that the unlawful assembly by which such riot was committed was likely to be held, shall not use all

Liability of agent of owner or occupier for whose benefit a riot is committed.

lawful means in his power to prevent such riot or assembly from taking place and for suppressing and dispersing the same.

Harbouring persons hired for an unlawful assembly.

157. Whoever harbours, receives, or assembles in any house or premises in his occupation or charge, or under his control, any persons, knowing that such persons have been hired, engaged, or employed, or are about to be hired, engaged, or employed, to join or become members of an unlawful assembly, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Being hired to take part in an unlawful assembly or riot.

158. Whoever is engaged or hired, or offers or attempts to be hired or engaged, to do or assist in doing any of the acts specified in Section 141, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both; and whoever, being so engaged, or hired, as aforesaid, goes armed, or engages, or offers to go armed, with any deadly weapon, or with any thing which, used as a weapon of offence, is likely to cause death, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Or to go armed.

Affray.

159. When two or more persons, by fighting in a public place, disturb the public peace, they are said to "commit an affray."

Punishment for committing affray.

160. Whoever commits an affray, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred Rupees, or with both.

CHAPTER IX.

OF OFFENCES BY OR RELATING TO PUBLIC SERVANTS.

161. Public servant, or person expecting to be one, accepting, &c., or attempting to obtain, for himself, or any one else, any gratification other than legal remuneration, &c., for official act, &c., or for any service, &c., to any person with the public authorities, shall be punishable with imprisonment of either kind, &c., or fine, or both. Explanation of "expecting to be a

public servant,' "gratification," "legal remuneration," "motive or reward for doing." Illustrations.

162—164. Any person accepting, &c., any gratification, &c., for inducing, by corrupt or illegal means, any public servant to do, or forbear, &c., show favor or disfavor, &c., render service or disservice, &c., shall be liable to same punishments, and (163) for inducing, by the exercise of personal influence, the same conduct on part of public servant, shall be liable to reduced amount of same punishment; and (164) any public servant to whom the said means are addressed, who abets the offence, shall be liable to same punishment.

165. Public servant accepting, &c., or obtaining, &c., for himself or any one else, any valuable thing without consideration, or for what he knows to be inadequate consideration, from any person concerned or likely to be concerned in any business, &c., of such public servant, &c., shall be punishable with imprisonment, &c., or fine, or both.

166. Public servant knowingly disobeying any direction of the law as to his conduct as public servant, intending to cause, or knowing that it will be likely to cause injury to any person, shall be punishable with simple imprisonment, or fine, or both.

167. Public servant charged with the preparation or translation of any document, doing it knowingly incorrectly, and intending thereby to injure, &c., any person, shall be punishable with imprisonment of either kind, or fine, or both.

168. Public servant, bound not to engage in trade, doing it, shall be punishable with simple imprisonment, or fine, or both.

169. Public servant bound not to purchase or bid for any property, doing it either alone, or jointly, or in shares, punishable with simple imprisonment, &c., or fine, or both, and the property shall be confiscated.

170—171. Falsely pretending to hold a particular office, or personating the real officer, and in such assumed character doing any act by color of it, punishable with imprisonment, or fine, or both; and (171) wearing garb, &c., of any class of public servants, &c., to make believe in the assumed garb as a true one, punishable with reduced amount.

Public servant taking a gratification other than legal remuneration, in respect of an official act.

161. Whoever, being or expecting to be a public servant, accepts or obtains, or agrees to accept, or attempts to obtain from any person, for himself or for any other person, any gratification whatever other than legal remuneration, as a motive or reward for doing or forbearing to do any official act, or for showing or forbearing to show, in the exercise of his official functions, favor or disfavor to any person, or for rendering or attempting to render any service or disservice to any person, with the Legislative or Executive

Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Explanations.—"Expecting to be a public servant." If a person not expecting to be in office obtains a gratification by deceiving others into a belief that he is about to be in office, and that he will then serve them, he may be guilty of cheating, but he is not guilty of the offence defined in this Section.

"Gratification." The word "gratification" is not restricted to pecuniary gratifications, or to gratifications estimable in money.

"Legal remuneration." The words "legal remuneration" are not restricted to remuneration which a public servant can lawfully demand, but include all remuneration which he is permitted by the Government which he serves to accept.

"A motive or reward for doing." A person who receives a gratification as a motive for doing what he does not intend to do, or as a reward for doing what he has not done, comes within these words.

Illustrations.

(a) A, a Moonsiff, obtains from Z, a banker, a situation in Z's bank for A's brother, as a reward to A for deciding a cause in favor of Z. A has committed the offence defined in this Section.

(b) A, holding the office of Resident at the Court of a subsidiary power, accepts a lakh of Rupees from the Minister of that power. It does not appear that A accepted this sum as a motive or reward for doing or forbearing to do any particular official act, or for rendering or attempting to render any particular service to that power with the British Government. But it does appear that A accepted the sum as a motive or reward for generally showing favor in the exercise of his official functions to that power. A has committed the offence defined in this Section.

(c) A, a public servant, induces Z erroneously to believe that A's influence with the Government has obtained a title for Z, and thus induces Z to give A money as a reward for this service. A has committed the offence defined in this Section.

Taking a gratification, in order, by corrupt or illegal means, to influence a public servant.

162. Whoever accepts, or obtains, or agrees to accept, or attempts to obtain, from any person, for himself or for any other person, any gratification whatever as a motive or reward for

inducing, by corrupt or illegal means, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Taking a gratification for the exercise of personal influence with a public servant.

163. Whoever accepts or obtains, or agrees to accept or attempts to obtain, from any person, for himself or for any other person, any gratification whatever, as a motive or reward for inducing, by the exercise of personal influence, any public servant to do or to forbear to do any official act, or in the exercise of the official functions of such public servant to show favor or disfavor to any person, or to render or attempt to render any service or disservice to any person, with the Legislative or Executive Government of India, or with the Government of any Presidency, or with any Lieutenant-Governor, or with any public servant, as such, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

An Advocate who receives a fee for arguing a case before a Judge; a person who receives pay for arranging and correcting a memorial addressed to Government, setting forth the services and claims of the memorialist; a paid agent for a condemned criminal, who lays before the Government statements tending to show that the condemnation was unjust; are not within this Section, inasmuch as they do not exercise or profess to exercise personal influence.

Punishment for abetment by public servant of the offences above defined.

164. Whoever, being a public servant, in respect of whom either of the offences defined in the last two preceding Sections is committed, abets the offence, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Illustration.

A is a public servant. B, A's wife, receives a present as a motive for soliciting A to give an office to a particular person. A abets her doing so. B is

punishable with imprisonment for a term not exceeding one year, or fine, or both. A is punishable with imprisonment for a term which may extend to three years, or fine, or both.

Public servant obtaining any valuable thing, without consideration, from person concerned in any proceeding or business transacted by such public servant.

165. Whoever, being a public servant, accepts or obtains, or agrees to accept or attempts to obtain, for himself or for any other person, any valuable thing, without consideration or for a consideration which he knows to be inadequate, from any person whom he knows to have been, or to be, or to be likely to be concerned in any proceeding or business transacted or about to be transacted by such public servant, or having any connection with the official functions of himself or of any public servant to whom he is subordinate, or from any person whom he knows to be interested in or related to the person so concerned, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Illustration.

(a) A, a Collector, hires a house of Z, who has a settlement case pending before him. It is agreed that A shall pay fifty Rupees a month, the house being such that, if the bargain were made in good faith, A would be required to pay two hundred Rupees a month. A has obtained a valuable thing from Z without adequate consideration.

(b) A, a Judge, buys of Z, who has a cause pending in A's Court, Government Promissory Notes at a discount, when they are selling in the market at a premium. A has obtained a valuable thing from Z without adequate consideration.

(c) Z's brother is apprehended and taken before A, a Magistrate, on a charge of perjury. A sells to Z shares in a bank at a premium, when they are selling in the market at a discount. Z pays A for the shares accordingly. The money so obtained by A is a valuable thing obtained by him without adequate consideration.

Public servant disobeying a direction of the law, with intent to cause injury to any person.

166. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending to cause, or knowing it to be likely that he will, by such disobedience, cause injury to any person, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Illustration.

A, being an officer directed by law to take property in execution, in order to satisfy a decree pronounced in Z's favor by a Court of Justice, knowingly disobeys that direction of law, with the knowledge that he is likely thereby to cause injury to Z, A has committed the offence defined in this Section.

Public servant framing an incorrect document with intent to cause injury.

167. Whoever being a public servant, and being, as such public servant, charged with the preparation or translation of any document, frames or translates that document in a manner which he knows or believes to be incorrect, intending thereby to cause, or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant unlawfully engaging in trade.

168. Whoever, being a public servant, and being legally bound as such public servant not to engage in trade, engages in trade, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Public servant unlawfully buying or bidding for property.

169. Whoever, being a public servant, and being legally bound, as such public servant, not to purchase or bid for certain property, purchases or bids for that property, either in his own name or in the name of another, or jointly or in shares with others, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both; and the property, if purchased, shall be confiscated.

Personating a public servant.

170. Whoever pretends to hold any particular office as a public servant, knowing that he does not hold such office, or falsely personates any other person holding such office, and in such assumed character does or attempts to do any act under color of such office, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Wearing garb or carrying token used by public servant with fraudulent intent.

171. Whoever, not belonging to a certain class of public servants, wears any garb, or carries any token resembling any garb or token used by that class of public servants, with the intention

that it may be believed, or with the knowledge that it is likely to be believed, that he belongs to that class of public servants, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred Rupees, or with both.

CHAPTER X.

OF CONTEMPTS OF THE LAWFUL AUTHORITY OF PUBLIC SERVANTS.

172. Absconding to avoid service of legal process, &c., simple imprisonment and fine, and if the process be summons for personal attendance in court simple imprisonment and increased fine.

173. Intentionally preventing service of legal process, &c., or removing it from place where it is affixed, or preventing proclamation being made, simple imprisonment, or fine, or both, and increased fine if the process required personal attendance in a Court of Justice.

174. Not attending at place appointed in obedience to legal process, or illegally departing, simple imprisonment, or fine, or both, and increased term, or increased fine, if the process was for personal attendance in a Court of Justice.

175. Not producing, &c., document to public officer, simple imprisonment, &c., or fine, or both, and if the production should be to a Court of Justice, the same punishment of increased amount.

176. Not furnishing information, or giving notice to public officer, when bound, imprisonment, &c., or fine, or both, and same punishment increased if the object is the prevention of an offence, or apprehension of offender.

177. Being legally bound to furnish information to public servant, and knowingly, &c., furnishing false, simple imprisonment, &c., or fine, or both, and to an increased amount if the information is required for purposes of criminal police. Illustrations.

178—180. Refusing to take oath to state the truth, or (179) refusing to answer question when legally bound to do so, simple imprisonment. &c., or fine, or both, and (180) refusing to sign statement when legally required, same punishment of reduced amount.

181. On oath, making false statement, imprisonment of either kind, and fine.

182. Knowingly, &c. giving false information to public servant, to induce exercise of his power to injury of any one, &c., imprisonment of either kind, or fine, or both.

183. Offering resistance to the taking of property by public servant, imprisonment of either kind, or fine, or both.

184. Obstructing sale of property by public servant, imprisonment of either kind, or fine, or both.

185. Purchasing or bidding at such sale for person under legal incapacity, or without intention to perform the obligation of purchaser, imprisonment of either kind, or fine, or both.

186. Voluntarily obstructing public servant as such, imprisonment of either kind, or fine, or both.

187. Intentionally omitting to aid public servant in execution of his office, simple imprisonment, or fine, or both, to be of increased amount if the assistance was demanded for execution of process of Court of Justice, or for specified poilce purposes.

188. Knowingly disobeying a public order of a public servant, by taking possession of property contrary to order, if such disobedience causes &c., obstruction, &c., to persons employed, simple imprisonment, &c., or fine, or both, or if it causes danger to life, &c., imprisonment of either kind, or fine, or both. Explanation. Illustration.

189. Holding out any threat of injury to public servant, &c., to induce him to do, forbear, or delay, contrary to his duty, imprisonment of either kind, &c., or both.

190. Holding out any threat or injury to any one, to deter his resort to the protection of law, imprisonment of either kind, &c., or fine, or both.

Absconding to avoid service of summons, or other proceeding from a public servant.

172. Whoever absconds in order to avoid being served with a summons, notice, or order proceeding from any public servant legally competent, as such public servant, to issue such summons, notice, or order, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both; or if the summons, notice, or order is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Preventing service of summons or other proceeding, or preventing publication thereof.

173. Whoever in any manner intentionally prevents the serving on himself, or on any other person, of any summons, notice, or order proceeding from any public servant legally competent as such public servant, to issue such summons, notice, or order, or intentionally prevents the lawful affixing to any place of any such summons, notice, or order, or intentionally removes any such summons, notice, or order from any place to

which it is lawfully affixed, or intentionally prevents the lawful making of any proclamation, under the authority of any public servant legally competent, as such public servant, to direct such proclamation to be made, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both; or, if the summons, notice, order, or proclamation is to attend in person or by agent, or to produce a document in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Non-attendance in obedience to an order from a public servant.

174. Whoever being legally bound to attend in person or by an agent at a certain place and time in obedience to a summons, notice, order, or proclamation proceeding from any public servant legally competent, as such public servant, to issue the same, intentionally omits to attend at that place or time, or departs from the place where he is bound to attend before the time at which it is lawful for him to depart, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both; or if the summons, notice, order, or proclamation is to attend in person or by agent in a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Illustrations.

(a) A being legally bound to appear before the Supreme Court at Calcutta in obedience to a subpœna issuing from that Court, intentionally omits to appear. A has committed the offence defined in this Section.

(b) A being legally bound to appear before a Zillah Judge as a witness, in obedience to a summons issued by that Zillah Judge, intentionally omits to appear, A has committed the offence defined in this Section.

Omission to produce a document to a public servant by a person legally bound to produce such document.

175. Whoever, being legally bound to produce or deliver up any document to any public servant, as such, intentionally omits so to produce or deliver up the same, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both; or if the document is to be produced or delivered

up to a Court of Justice, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Illustration.

A being legally bound to produce a document before a Zillah Court, intentionally omits to produce the same, A has committed the offence defined in this Section.

Omission to give notice or information to a public servant by a person legally bound to give notice or information.

176. Whoever, being legally bound to give any notice or to furnish information on any subject to any public servant, as such, intentionally omits to give such notice, or to furnish such information in the manner and at the time required by law, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both; or, if the notice or information required to be given respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Furnishing false information.

177. Whoever, being legally bound to furnish information on any subject to any public servant, as such, furnishes, as true, information on the subject, which he knows or has reason to believe to be false, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both; or, if the information which he is legally bound to give respects the commission of an offence, or is required for the purpose of preventing the commission of an offence, or in order to the apprehension of an offender, with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(a) A, a landholder, knowing of the commission of a murder within the limits of his estate, wilfully misinforms the Magistrate of the District that the death has occurred by accident in consequence of the bite of a snake, A is guilty of the offence defined in this Section.

(b) A, a village watchman, knowing that a considerable body of strangers has passed through his village in order to commit a dacoity in the house of Z, a wealthy merchant, residing in a neighboring place, and being bound, under Clause 5, Section VII., Regulation III. 1821, of the Bengal Code, to give early and punctual information of the above fact to the officer of the nearest Police Station, wilfully misinforms the Police Officer that a body of suspicious characters passed through the village with a view to commit dacoity in a certain distant place in a different direction. Here A is guilty of the offence defined in this Section.

Refusing oath when duly required to take oath by a public servant.

178. Whoever refuses to bind himself by an oath to state the truth, when required so to bind himself by a public servant, legally competent to require that he shall so bind himself, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Refusing to answer a public servant authorized to question.

179. Whoever, being legally bound to state the truth on any subject to any public servant, refuses to answer any question demanded of him touching that subject by such public servant in the exercise of the legal powers of such public servant, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Refusing to sign statement.

180. Whoever refuses to sign any statement made by him when required to sign that statement by a public servant legally competent to require that he shall sign that statement, shall be punished with simple imprisonment for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

False statement on oath to public servant or person authorized to administer an oath.

181. Whoever, being legally bound by an oath to state the truth on any subject to any public servant or other person authorized by law to administer such oath, makes to such public servant or other person as aforesaid, touching that subject, any statement which is false, and which he either knows or believes to be false, or does not believe to be true, shall be punished with imprisonment of

either description for a term which may extend to three years, and shall also be liable to fine.

False information, with intent to cause a public servant to use his lawful power to the injury of another person.

182. Whoever gives to any public servant any information which he knows or believes to be false, intending thereby to cause, or knowing it to be likely that he will thereby cause such public servant to use the lawful power of such public servant to the injury or annoyance of any person, or to do or omit any thing which such public servant ought not to do or omit if the true state of facts respecting which such information is given were known by him, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Illustrations.

(a) A informs a Magistrate that Z, a Police Officer, subordinate to such Magistrate, has been guilty of neglect of duty or misconduct, knowing such information to be false, and knowing it to be likely that the information will cause the Magistrate to dismiss Z. A has committed the offence defined in this Section.

(b) A falsely informs a public servant that Z has contraband salt in a secret place, knowing such information to be false, and knowing that it is likely that the consequence of the information will be a search of Z's premises, attended with annoyance to Z. A has committed the offence defined in this Section.

Resistance to the taking of property by the lawful authority of a public servant.

183. Whoever offers any resistance to the taking of any property by the lawful authority of any public servant, knowing or having reason to believe that he is such public servant, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Obstructing sale of property offered for sale by authority of a public servant.

184. Whoever intentionally obstructs any sale of property offered for sale by the lawful authority of any public servant, as such, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both.

Illegal purchase or bid for property offered for sale by authority of a public servant.

185. Whoever, at any sale of property held by the lawful authority of a public servant as such, purchases or bids for any property on account of any person, whether himself or any other, whom he knows to be under a legal incapacity to purchase that property at that sale, or bids for such property not intending to perform the obligations under which he lays himself by such bidding, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both.

Obstructing public servant in discharge of his public functions.

186. Whoever voluntarily obstructs any public servant in the discharge of his public functions, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

Omission to assist public servant when bound by law to give assistance.

187. Whoever, being bound by law to render or furnish assistance to any public servant in the execution of his public duty, intentionally omits to give such assistance, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both; and if such assistance be demanded of him by a public servant legally competent to make such demand for the purposes of executing any process lawfully issued by a Court of Justice, or of preventing the commission of an offence, or of suppressing a riot or affray, or of apprehending a person charged with or guilty of an offence, or of having escaped from lawful custody, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to five hundred Rupees, or with both.

Disobedience to an order duly promulgated by a public servant.

188. Whoever, knowing that, by an order promulgated by a public servant lawfully empowered to promulgate such order, he is directed to abstain from a certain act, or to take certain order with certain property in his possession or under his management

disobeys such direction, shall, if such disobedience causes or tends to cause obstruction, annoyance or injury, or risk of obstruction, annoyance or injury to any person lawfully employed, be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to two hundred Rupees, or with both; and if such disobedience causes or tends to cause danger to human life, health or safety, or causes or tends to cause a riot or affray, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Explanation.—It is not necessary that the offender should intend to produce harm, or contemplate his disobedience as likely to produce harm. It is sufficient that he knows of the order which he disobeys, and that his disobedience produces, or is likely to produce harm.

Illustration.

An order is promulgated by a public servant lawfully empowered to promulgate such order, directing that a religious procession shall not pass down a certain street. A knowingly disobeys the order, and thereby causes danger of riot. A has committed the offence defined in this Section.

Threat of injury to a public servant.

189. Whoever holds out any threat of injury to any public servant, or to any person in whom he believes that public servant to be interested, for the purpose of inducing that public servant to do any act, or to forbear or delay to do any act, connected with the exercise of the public functions of such public servant, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Threat of injury to induce any person to refrain from applying for protection to a public servant.

190. Whoever holds out any threat of injury to any person for the purpose of inducing that person to refrain or desist from making a legal application for protection against any injury to any public servant legally empowered as such to give such protection, or to cause such protection to be given, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XI.

OF FALSE EVIDENCE AND OFFENCES AGAINST PUBLIC JUSTICE.

191—192. Person being bound by an oath, or express provision of law, to state the truth, and knowingly, &c., making false statement, or statement not believed by maker of it to be true, is said (in the Code) "to give false evidence," whether it be verbal or written. Explanations. And (192) a person is said to "fabricate false evidence," who causes any circumstance to exist, or makes any false entry, &c., or false document, intending it to be used in evidence in a judicial proceeding, or proceeding before a public servant or before an arbitration, and thereby to mislead touching any point material to the result.

193. Intentionally giving false evidence in judicial proceedings, or fabricating false evidence for use in judicial proceeding, imprisonment of either kind, &c., and fine, and in any other case like punishment of diminished amount. Explanations 1, 2 and 3.

194—195.—Giving or fabricating false evidence, with a view to obtain a conviction of a capital offence, transportation for life or rigorous imprisonment, &c., and if conviction is thereby obtained, death, or the above punishment; and (195) if given with a view to obtain conviction of an offence not capital, &c., the same punishment as the person convicted would be liable to.

196. Corruptly using, &c., as true or genuine, any evidence known to be false or fabricated, the same punishment as for giving or fabricating such evidence.

197—198. Issuing or signing any certificate required by law, &c. knowing or believing it to be false in any material respect, and (198) corruptly using or attempting to use the same, same punishment in such case as for giving false evidence.

199—200. Making any statement, known or believed to be false, or not believed to be true, in any declaration, &c., usable or receivable as evidence in Court of Justice, &c., or (200) corruptly using or attempting to use any such declaration, same punishment in such case as for giving false evidence.

201. Causing to disappear any evidence of the commission of an offence, to serve the offender, &c., or with same object knowingly giving any false information, punishable on a graduated scale, according to the punishment attached to the principal offence.

202. Omitting to give information, when legally bound to give it, of an offence known or believed to have been committed, imprisonment of either kind, or fine, or both.

203. Giving false information respecting an offence known or believed to have been committed, imprisonment of either kind, or fine, or both.

204. Secreting or destroying, &c., obliterating or rendering illegible, &c., any document, &c., with intention of preventing its being used as evidence, &c., imprisonment of either kind, or fine, or both.

205. Falsely personating another, and acting in the assumed character in any civil or criminal prosecution, imprisonment of either kind, or fine, or both.

206. Fraudulently removing, concealing, transferring, &c., any property, &c., intending thereby to elude forfeiture or fine pronounced, or likely to be, or to elude any decree or order, &c., imprisonment of either kind, or fine, or both.

207. Fraudulently accepting, receiving, or claiming any property, &c., or practising any deception touching right to property, &c., to elude forfeiture or fine, &c., decree or order, &c., imprisonment of either kind, or fine, or both.

208. Any one fraudulently causing, &c., a decree or order to be passed against himself at suit of any person, for sums not due, or exceeding the due amount, or for property, &c., or fraudulently causing, &c., decree or order to be executed against himself, &c., shall be liable to imprisonment of either kind, or fine, or both. Illustration.

209. Fraudulently, or dishonestly, or with intent to injure any one, making a false claim, imprisonment of either kind, and fine.

210. Fraudulently obtaining a decree or order against any person for sum not due, or more than is due, or for property to which he is not entitled, or causing such decree or order to be executed, imprisonment of either kind, &c., or fine, or both.

211. With intent to cause injury to any one instituting or causing, &c., any criminal proceeding, &c., or falsely charging any person, &c., knowing that there is no just or lawful ground, imprisonment of either kind, or fine, or both, or if the offence falsely charged be capital, transportation, &c.

212. After offence committed harbouring or concealing actual or probable offender to screen him from punishment, a graduated scale of punishment according to the amount of punishment attached to the principal offence, except a case of harbouring, &c., of husband or a wife by the other of them.

213—214. Accepting, or attempting to obtain, &c., any gratification, or any restitution of property, in consideration of concealing an offence, or screening or not proceeding against an offender, &c., a graduated scale of punishment according to the punishment attached to the principal offence, and (214) for giving or causing, offering, &c., any such gratification or restitution of property for those considerations, the same graduated scale of punishment, excepting when the act prohibited was unconnected with an intention, and for which act a civil action will lie.

215. Taking or agreeing, or consenting to take, any gratification under pretence of giving help to a person to recover property of which he has been

deprived by crime, imprisonment of either kind, or fine, or both, unless all means have been used to bring offender to justice.

216. Harbouring or concealing persons escaped from custody, or against whom a capias is out, a graduated scale of punishment according to the punishment to which the principal is liable; but husband or wife not punishable for harbouring the other.

217. Public servant acting contrary to law, with intention, &c., to save any person from legal punishment, &c., or to save any property from forfeiture or charge, shall be liable to imprisonment of either kind, or fine, or both.

218. Public servant, charged with the preparation of any record, &c., framing it incorrectly, &c., with intent to cause, &c., loss or injury, &c., or to save any property from forfeiture or charge, &c., shall be liable to imprisonment of either kind, or fine, or both.

219. Public servant corrupting, or maliciously making, or pronouncing in course of judicial proceeding any report, order, verdict or decision, knowingly contrary to law, shall be liable to imprisonment of either kind, or fine, or both.

220. Public officer corruptly or maliciously committing any person for trial or confinement, or keeping him in confinement, knowing that he does it contrary to law, shall be liable to imprisonment of either kind, or fine, or both.

221—222. Public servant, legally bound to apprehend or keep any person, by the criminal law, omitting to apprehend such person, or intentionally suffering or aiding his escape, shall be liable to punishment on a graduated scale, according to the punishment to which the principal offender is liable; and (222) where the duty of such public servant was created by the sentence of a Court of Justice, he shall for the same offence be liable to another graduated scale of punishments, as specified in this Section.

223. Public servant, legally bound as such to keep any person in confinement, &c., and negligently suffering him to escape, shall be liable to simple imprisonment, &c., or fine, or both.

224. Intentionally resisting or obstructing an arrest of one-self, or escaping, or attempting to escape, from lawful criminal custody, imprisonment of either kind, &c., or fine, or both, in addition to punishment for original offence.

225. Intentionally resisting, or obstructing, the apprehension of, or rescuing any other person, under criminal process, imprisonment of either kind or fine, or both, and subject also to a graduated scale of punishments, according to the punishment to which the principal is liable.

226. Returning from transportation before expiry of term, transportation for life, and rigorous imprisonment, &c.

227. A person violating any condition attached to remission of punishment, shall be liable according to the original sentence against him, &c.

228. Intentionally offering any insult, or causing interruption to public servant, sitting on a judicial proceeding, simple imprisonment, &c., or fine, or both.

229. Any person, by personation, or otherwise suffering himself to be returned, &c., as a juryman, not being entitled to, &c., by law, or serving on such jury, &c., shall be liable to imprisonment of either kind, or fine, or both.

Giving false evidence.

191. Whoever being legally bound by an oath, or by any express provision of law to state the truth, or being bound by law to make a declaration upon any subject, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true, is said to give false evidence.

Explanation 1.—A statement is within the meaning of this Section, whether it is made verbally or otherwise.

Explanation 2.—A false statement as to the belief of the person attesting is within the meaning of this Section, and a person may be guilty of giving false evidence by stating that he believes a thing which he does not believe, as well as by stating that he knows a thing which he does not know.

Illustrations.

(a) A, in support of a just claim which B has against Z for one thousand Rupees, falsely swears on a trial that he heard Z admit the justice of B's claim. A has given false evidence.

(b) A, being bound by an oath to state the truth, states that he believes a certain signature to be the handwriting of Z, when he does not believe it to be the handwriting of Z. Here A states that which he knows to be false, and therefore gives false evidence.

(c) A, knowing the general character of Z's handwriting, states that he believes a certain signature to be the handwriting of Z; A in good faith believing it to be so. Here A's statement is merely as to his belief, and is true as to his belief, and therefore, although the signature may not be the handwriting of Z, A has not given false evidence.

(d) A, being bound by an oath to state the truth, states that he knows that Z was at a particular place on a particular day, not knowing any thing upon the subject. A gives false evidence, whether Z was at that place on the day named, or not.

(e) A, an interpreter or translator, gives or certifies as a true interpretation or translation of a statement or document which he is bound by oath to

interpret or translate truly, that which is not, and which he does not believe to be a true interpretation or translation. A has given false evidence.

Fabricating false evidence.

192. Whoever causes any circumstance to exist, or makes any false entry in any book or record, or makes any document containing a false statement, intending that such circumstance, false entry, or false statement may appear in evidence in a judicial proceeding, or in a proceeding taken by law before a public servant as such, or before an arbitrator, and that such circumstance, false entry, or false statement, so appearing in evidence, may cause any person, who in such proceeding, is to form an opinion upon the evidence, to entertain an erroneous opinion touching any point material to the result of such proceeding, is said "to fabricate false evidence."

Illustrations.

(a) A puts jewels into a box belonging to Z, with the intention that they may be found in that box, and that this circumstance may cause Z to be convicted of theft. A has fabricated false evidence.

(b) A makes a false entry in his shop book for the purpose of using it as corroborative evidence in a Court of Justice. A has fabricated false evidence.

(c) A, with the intention of causing Z to be convicted of a criminal conspiracy, writes a letter in imitation of Z's handwriting, purporting to be addressed to an accomplice in such criminal conspiracy, and puts the letter in a place which he knows that the officers of the police are likely to search. A has fabricated false evidence.

Punishment for false evidence.

193. Whoever intentionally gives false evidence in any stage of a judicial proceeding, or fabricates false evidence for the purpose of being used in any stage of a judicial proceeding, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and whoever intentionally gives or fabricates false evidence in any other case, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation 1.—A trial before a Court Martial or before a Military Court of Request is a judicial proceeding.

Explanation 2.—An investigation directed by law preliminary to a proceeding before a Court of Justice, is a stage of a judicial

proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before a Magistrate for the purpose of ascertaining whether Z ought to be committed for trial, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Explanation 3.—An investigation directed by a Court of Justice according to law, and conducted under the authority of a Court of Justice, is a stage of a judicial proceeding, though that investigation may not take place before a Court of Justice.

Illustration.

A, in an enquiry before an Officer deputed by a Court of Justice to ascertain on the spot the boundaries of land, makes on oath a statement which he knows to be false. As this enquiry is a stage of a judicial proceeding, A has given false evidence.

Giving or fabricating false evidence with intent to procure conviction of a capital offence.

194. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause, any person to be convicted of an offence which is capital by this Code, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if an innocent person be convicted and executed in consequence of such false evidence, the person who gives such false evidence shall be punished either with death, or the punishment hereinbefore described.

If innocent person be thereby convicted and executed.

Giving or fabricating false evidence with intent to procure conviction of an offence punishable with transportation or imprisonment.

195. Whoever gives or fabricates false evidence, intending thereby to cause, or knowing it to be likely that he will thereby cause any person to be convicted of an offence which by this Code is not capital, but punishable with transportation for life, or imprisonment for a term of seven years or upwards, shall be punished as a person convicted of that offence would be liable to be punished.

Illustration.

A gives false evidence before a Court of Justice, intending thereby to cause Z to be convicted of a dacoity. The punishment of dacoity is transportation or life, or rigorous imprisonment for a term which may extend to ten years,

with or without fine. A, therefore, is liable to such transportation or imprisonment, with or without fine.

Using evidence known to be false.

196. Whoever corruptly uses or attempts to use as true or genuine evidence, any evidence which he knows to be false or fabricated, shall be punished in the same manner as if he gave or fabricated false evidence.

Issuing or signing a false certificate.

197. Whoever issues or signs any certificate required by law to be given or signed, or relating to any fact of which such certificate is by law admissible in evidence, knowing or believing that such certificate is false in any material point, shall be punished in the same manner as if he gave false evidence.

Using as a true certificate one known to be false in a material point.

198. Whoever corruptly uses or attempts to use any such certificate, as a true certificate, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

False statement made in any declaration which is by law receivable as evidence.

199. Whoever, in any declaration made or subscribed by him, which declaration any Court of Justice, or any public servant, or other person, is bound or authorized by law to receive as evidence of any fact, makes any statement which is false, and which he either knows or believes to be false, or does not believe to be true, touching any point material to the object for which the declaration is made or used, shall be punished in the same manner as if he gave false evidence.

Using as true any such declaration known to be false.

200. Whoever corruptly uses or attempts to use as true any such declaration, knowing the same to be false in any material point, shall be punished in the same manner as if he gave false evidence.

Explanation.—A declaration which is inadmissible merely upon the ground of some informality, is a declaration within the meaning of Sections 199 and 200.

Causing disappearance of evidence of an offence committed, or giving false information touching it, to screen the offender.

201. Whoever, knowing or having reason to believe that an offence has been committed, causes any evidence of the commission of that offence to disappear, with the intention of screening the offender from legal punishment, or with

that intention gives any information respecting the offence which he knows or believes to be false, shall, if the offence which he knows or believes to have been committed is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and is the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment for any term not extending to ten years, shall be punished with imprisonment of the description provided for the offence, for a term which may extend to one-fourth part of the longest term of the imprisonment provided for the offence, or with fine, or with both.

If a capital offence.

If punishable with transportation.

If punishable with less than ten years' imprisonment.

Illustration.

A, knowing that B has murdered Z, assists B to hide the body with the intention of screening B from punishment. A is liable to imprisonment of either description for seven years, and also to fine.

202. Whoever, knowing or having reason to believe that an offence has been committed, intentionally omits to give any information respecting that offence which he is legally bound to give, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Intentional omission to give information of an offence, by a person bound to inform.

203. Whoever, knowing or having reason to believe that an offence has been committed, gives any information respecting that offence which he knows or believes to be false, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Giving false information respecting an offence committed.

204. Whoever secretes or destroys any document which he may be lawfully compelled to produce as evidence in a Court of Justice, or in any proceeding lawfully held before a public servant as such, or obliterates or renders illegible the whole or any part of such document with the intention of preventing the same from being

Destruction of document to prevent its production as evidence.

produced or used as evidence before such Court or public servant as aforesaid, or after he shall have been lawfully summoned or required to produce the same for that purpose, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False personation for the purpose of any act or proceeding in a suit.

205. Whoever falsely personates another, and in such assumed character makes any admission or statement, or confesses judgment, or causes any process to be issued, or becomes bail or security, or does any other act in any suit or criminal prosecution shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Fraudulent removal or concealment of property to prevent its seizure as a forfeiture or in execution of a decree.

206. Whoever fraudulently removes, conceals, transfers, or delivers to any person any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made, or which he knows to be likely to be made by a Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulent claim to property to prevent its seizure as a forfeiture or in execution of a decree.

207. Whoever fraudulently accepts, receives, or claims any property or any interest therein, knowing that he has no right or rightful claim to such property or interest, or practises any deception touching any right to any property or any interest therein, intending thereby to prevent that property or interest therein from being taken as a forfeiture or in satisfaction of a fine, under a sentence which has been pronounced, or which he knows to be likely to be pronounced by a Court of Justice or other competent authority, or from being taken in execution of a decree or order which has been made or which he knows to be likely to be made by a Court of Justice in a Civil suit, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Fraudulently suffering a decree for a sum not due.

208. Whoever fraudulently causes or suffers a decree or order to be passed against him at the suit of any person for a sum not due, or for a larger sum than is due to such person, or for any property or interest in property to which such person is not entitled, or fraudulently causes or suffers a decree or order to be executed against him after it has been satisfied, or for any thing in respect of which it has been satisfied, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustration.

A institutes a suit against Z. Z, knowing that A is likely to obtain a decree against him, fraudulently suffers a judgment to pass against him for a larger amount at the suit of B, who has no just claim against him, in order that B, either on his own account or for the benefit of Z, may share in the proceeds of any sale of Z's property which may be made under A's decree. Z has committed an offence under this Section.

Dishonestly making false claim in a Court of Justice.

209. Whoever fraudulently or dishonestly, or with intent to injure or annoy any person, makes in a Court of Justice any claim which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Fraudulently obtaining a decree for a sum not due.

210. Whoever fraudulently obtains a decree or order against any person for a sum not due or for a larger sum than is due, or for any property or interest in property to which he is not entitled, or fraudulently causes a decree or order to be executed against any person after it has been satisfied, or for any thing in respect of which it has been satisfied, or fraudulently suffers or permits any such act to be done in his name, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

False charge of offence made with intent to injure.

211. Whoever, with intent to cause injury to any person, institutes or causes to be instituted any criminal proceeding against that person, or falsely charges any person with having committed an offence, knowing that there is no just or lawful ground for such proceeding or charge against that person, shall be punished

with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if such criminal proceeding be instituted on a false charge of an offence punishable with death, transportation for life, or imprisonment for seven years or upwards, shall be punishable with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Harbouring an offender.

212. Whenever an offence has been committed, whoever harbours or conceals a person whom he knows or has reason to believe to be the offender, with the intention of screening him from legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

If a capital offence.

If punishable with transportation for life or with imprisonment.

Exception.—This provision shall not extend to any case in which the harbour or concealment is by the husband or wife of the offender.

Illustration.

A, knowing that B has committed dacoity, knowingly conceals B in order to screen him from legal punishment. Here, as B is liable to transportation for life, A is liable to imprisonment of either description for a term not exceeding three years, and is also liable to fine.

Taking gift, &c., to screen an offender from punishment.

213. Whoever accepts or attempts to obtain, or agrees to accept, any gratification for himself or any other person, or any restitution of property to himself or any other person, in consideration of his concealing an offence or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing

him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending to ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

If a capital offence.

If punishable with transportation for life, or with imprisonment.

214. Whoever gives or causes, or offers or agrees to give or cause, any gratification to any person, or to restore or cause the restoration of any property to any person, in consideration of that person's concealing an offence, or of his screening any person from legal punishment for any offence, or of his not proceeding against any person for the purpose of bringing him to legal punishment, shall, if the offence is punishable with death, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the offence is punishable with transportation for life, or with imprisonment which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence is punishable with imprisonment not extending ten years, shall be punished with imprisonment of the description provided for the offence for a term which may extend to one-fourth part of the longest term of imprisonment provided for the offence, or with fine, or with both.

Offering gift or restoration of property in consideration of screening offender.

If a capital offence.

If punishable with transportation for life, or with imprisonment.

Exception.—The provisions of Sections 213 and 214 do not extend to any case in which the offence consists only of an act irrespective of the intention of the offender, and for which act the person injured may bring a civil action.

Illustrations.

(a) A assaults B with intent to commit murder. Here, as the offence does not consist of the assault only, irrespective of the intention to commit murder, it does not fall within the exception, and cannot therefore be compounded.

(b) A assaults B. Here, as the offence consists simply of the act, irrespective of the intention of the offender, and as B may have a civil action for the assault, it is within the exception, and may be compounded.

(c) A commits the offence of bigamy. Here, as the offence is not the subject of a civil action, it cannot be compounded.

(d) B commits the offence of adultery with a married woman. The offence may be compounded.

Taking gift to help to recover stolen property, &c.

215. Whoever takes or agrees or consents to take any gratification under pretence or on account of helping any person to recover any moveable property, of which he shall have been deprived by any offence punishable under this Code, shall, unless he uses all means in his power to cause the offender to be apprehended and convicted of the offence, be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Harbouring an offender who has escaped from custody, or whose apprehension has been ordered.

216. Whenever any person convicted of or charged with an offence, being in lawful custody for that offence, escapes from such custody, or whenever a public servant, in the exercise of the lawful powers of such public servant, orders a certain person to be apprehended for an offence; whoever, knowing of such escape or order for apprehension, harbours or conceals that person with the intention of preventing him from being apprehended, shall be punished in the manner following, that is to say, if the offence for which the person was in custody or is ordered to be apprehended, is punishable with death, he shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; if the offence is punishable with transportation for life, or imprisonment for ten years, he shall be punished with imprisonment of either description for a term which may extend to three years, with or without fine; and if the offence is punishable with imprisonment which may extend to one year and not to ten years, he shall be punished with imprisonment of the description

If a capital offence.

If punishable with transportation for life, or with imprisonment.

provided for the offence for a term which may extend to one-fourth part of the longest term of the imprisonment provided for such offence, or with fine, or with both.

Exception.—This provision does not extend to the case in which the harbour or concealment is by the husband or wife of the person to be apprehended.

Public servant disobeying a direction of law with intent to save person from punishment or property from forfeiture.

217. Whoever, being a public servant, knowingly disobeys any direction of the law as to the way in which he is to conduct himself as such public servant, intending thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or subject him to a less punishment than that to which he is liable, or with intent to save, or knowing that he is likely thereby to save any property from forfeiture or any charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Public servant framing an incorrect record or writing with intent to save person from punishment or property from forfeiture.

218. Whoever, being a public servant, and being, as such public servant, charged with the preparation, of any record or other writing, frames that record or writing in a manner which he knows to be incorrect, with intent to cause, or knowing it to be likely that he will thereby cause loss or injury to the public or to any person, or with intent thereby to save, or knowing it to be likely that he will thereby save, any person from legal punishment, or with intent to save, or knowing that he is likely thereby to save any property from forfeiture or other charge to which it is liable by law, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Public servant in a judicial proceeding corruptly making an order, report, &c., which he knows to be contrary to law.

219. Whoever, being a public servant, corruptly or maliciously makes or pronounces in any stage of a judicial proceeding, any report, order, verdict, or decision which he knows to be contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Commitment for trial or confinement by a person having authority who knows that he is acting contrary to law.

220. Whoever, being in any office which gives him legal authority to commit persons for trial or to confinement, or to keep persons in confinement, corruptly or maliciously commits any person for trial or to confinement, or keeps any person in confinement in the exercise of that authority, knowing that in so doing he is acting contrary to law, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Intentional omission to apprehend on the part of a public servant bound by law to apprehend.

221. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person charged with or liable to be apprehended for an offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape, or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:

Punishment.

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for an offence punishable with death; or

With imprisonment of either description for a term which may extend to three years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for an offence punishable with transportation for life or imprisonment for a term which may extend to ten years; or

With imprisonment of either description for a term which may extend to two years, with or without fine, if the person in confinement, or who ought to have been apprehended, was charged with, or liable to be apprehended for an offence punishable with imprisonment for a term less than ten years.

Intentional omission to apprehend on the part of a public servant bound by law to apprehend person under sentence of a Court of Justice.

222. Whoever, being a public servant, legally bound as such public servant to apprehend or to keep in confinement any person under sentence of a Court of Justice for any offence, intentionally omits to apprehend such person, or intentionally suffers such person to escape,

or intentionally aids such person in escaping or attempting to escape from such confinement, shall be punished as follows, that is to say:

Punishment.

With transportation for life, or with imprisonment of either description for a term which may extend to fourteen years, with or without fine, if the person in confinement, or who ought to have been apprehended, is under sentence of death; or

With imprisonment of either description for a term which may extend to seven years, with or without fine, if the person in confinement, or who ought to have been apprehended, is subject by a sentence of a Court of Justice, or by virtue of a commutation of such sentence, to transportation for life or penal servitude for life, or to transportation or penal servitude or imprisonment for a term of ten years or upwards; or

With imprisonment of either description for a term which may extend to three years, or with fine, or with both, if the person in confinement, or who ought to have been apprehended, is subject by a sentence of a Court of Justice to imprisonment for a term not extending to ten years.

Escape from confinement negligently suffered by a public servant.

223. Whoever, being a public servant, legally bound as such public servant to keep in confinement any person charged with or convicted of any offence, negligently suffers such person to escape from confinement, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Resistance or obstruction by a person to his lawful apprehension.

224. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of himself for any offence with which he is charged or of which he has been convicted, or escapes or attempts to escape from any custody in which he is lawfully detained for any such offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Explanation.—The punishment in this Section is in addition to the punishment for which the person to be apprehended or detained in custody was liable for the offence with which he was charged, or of which he was convicted.

225. Whoever intentionally offers any resistance or illegal obstruction to the lawful apprehension of any other person for an offence, or rescues or attempts to rescue any other person from any custody in which that person is lawfully detained for an offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both;

Resistance or obstruction to the lawful apprehension of another person.

Punishment.

Or, if the person to be apprehended, or the person rescued or attempted to be rescued, is charged with, or liable to be apprehended for an offence punishable with transportation for life, or imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is charged with, or liable to be apprehended for an offence punishable with death, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, is liable, under the sentence of a Court of Justice, or by virtue of a commutation of such a sentence, to transportation for life, or to transportation, penal servitude, or imprisonment, for a term of ten years or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine;

Or, if the person to be apprehended or rescued, or attempted to be rescued, is under sentence of death, shall be punished with transportation for life, or imprisonment of either description, for a term not exceeding ten years, and shall also be liable to fine.

226. Whoever, having been lawfully transported, returns from such transportation, the term of such transportation not having expired, and his punishment not having been remitted, shall be punished with transportation for life, and shall also be liable to fine, and to be imprisoned with rigorous imprisonment for a term not exceeding three years before he is so transported.

Unlawful return from transportation.

227. Whoever, having accepted any conditional remission of punishment, knowingly violates any condition on which such remission was granted, shall be punished with the punishment to which he was originally sentenced, if he has already suffered no part of that punishment, and if he has suffered any part of that punishment, then with so much of that punishment as he has not already suffered.

Violation of condition of remission of punishment.

228. Whoever intentionally offers any insult, or causes any interruption to any public servant while such public servant is sitting in any stage of a judicial proceeding, shall be punished with simple imprisonment for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Intentional insult or interruption to a public servant sitting in any stage of a judicial proceeding.

229. Whoever, by personation or otherwise, shall intentionally cause, or knowingly suffer himself to be returned, empanelled, or sworn as a juryman or assessor in any case in which he knows that he is not entitled by law to be so returned, empanelled, or sworn, or, knowing himself to have been so returned, empanelled, or sworn contrary to law, shall voluntarily serve on such jury or as such assessor, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Personation of a juror or assessor.

CHAPTER XII.

OF OFFENCES RELATING TO COIN AND GOVERNMENT STAMPS.

230. Coin is metal used as money, issued by authority of Government. What is the Queen's coin. Illustrations.

231—232. Counterfeiting coin or performing any part of the process of counterfeiting, punishable with imprisonment of either kind, &c., and fine. Explanation. (232) Same offence on the Queen's coin, punishable with transportation, imprisonment of either kind, and fine.

233—234. Making or mending, &c., or buying, &c., any die, &c., for purpose, &c., of its being used in counterfeiting coin, imprisonment of either kind and fine; (234) same offence for counterfeiting the Queen's coin, an increased term of imprisonment and fine.

235. Being in possession of any instrument or material for use in counterfeiting coin, &c., imprisonment of either kind and fine, and an

increased term of imprisonment if the use is for counterfeiting the Queen's coin.

236. Person within British India, abetting the counterfeiting of coin out of it, punishable as if the abetting was to counterfeit within British India.

237—238. Importing or exporting counterfeit coin knowingly, &c., transportation or imprisonment of either kind and fine; and (238) if the counterfeit is of the Queen's coin, an increased amount of punishment.

239—240. Having any counterfeit coin, knowing it at the time the party received to be counterfeit, and fraudulently passing it, imprisonment of either kind, and fine; and (240) if it be the Queen's coin, and the party receiving it knew it to be so, an increased amount of punishment.

241. Passing as genuine, knowing any counterfeit coin, but which the party took without knowing it to be counterfeit, imprisonment of either kind, or fine to ten times the value of the coin, or both.

242—243. Fraudulently or with fraudulent intent, being in possession of counterfeit coin, knowing it was so at time of coming into possession, imprisonment of either kind, and fine; and (243) if the coin be the Queen's, an increased amount of punishment.

244. Person employed in any lawful mint, doing or omitting any act, with intent to cause coin of wrong weight or composition to be issued, liable to imprisonment of either kind and fine.

245. Person wrongfully taking out of any lawful mint, coining tool or instrument, liable to imprisonment of either kind and fine.

246—247. Fraudulently or dishonestly performing any operation on coin which diminishes the weight or alters the composition, imprisonment of either kind and fine; and (247) if the coin be the Queen's, an increased amount of punishment.

248—249. Performing on coin an operation which alters its appearance, with intent to pass as a different coin, imprisonment of either kind and fine; and (249) if it be the Queen's coin, an increased amount of punishment.

250—251. Having possession of coin on which the offence of Sections 246 and 248 has been committed, knowing that fact at time of taking possession, and fraudulently, &c., passing such coin, &c., imprisonment of either kind and fine; and (251) if it was the Queen's coin, an increased amount of punishment.

252—253. Fraudulently, &c., being in possession of coin on which the offence of Sections 246 and 248 has been committed, knowing that fact at time of taking possession, imprisonment of either kind or fine; and if the coin is the Queen's, an increased amount of punishment.

254. Delivering as genuine, or as a coin different from what it is, or attempting to do so, &c., any coin on which the offence of Sections 246, 247, 248 and 249 has been committed, but not having known the fault of the coin when it was received, imprisonment of either kind, or fine ten times the value of the coin.

255. Counterfeiting or performing any process for counterfeiting any Government stamp-duty stamp, imprisonment of either kind and fine.

256. Having any instrument or material for counterfeiting any Government stamp-duty stamp, imprisonment of either kind and fine.

257. Making or performing process of making, or buying, &c., any instrument for counterfeiting any stamp-duty stamp, imprisonment of either kind and fine.

258. Selling, &c., any stamp-duty stamp, knowing, &c., it to be counterfeit, imprisonment and fine.

259. Having possession of counterfeit stamp-duty stamp, intending to dispose of it as genuine in order to its being used as such, imprisonment of either kind and fine.

260. Knowingly using as genuine counterfeit stamp, imprisonment of either kind and fine.

261. Fraudulently and with intent to cause loss to Government removing, &c., from any stamped substance, any writing, &c., in order that the writing, &c., may be used for a different writing, &c., imprisonment of either kind, or fine, or both.

262—263. Fraudulently, or with intent to cause loss to Government, using a stamp twice over, imprisonment of either kind, or fine, or both; and (263) erasing mark showing that stamp has been once used, or knowingly having or selling such stamp, imprisonment of either kind, or fine, or both.

Coin.

230. Coin is metal used as money stamped and issued by the authority of some Government in order to be so used.

Queen's coin.

Coin stamped and issued by the authority of the Queen, or by the authority of the Government of India or of the Government of any Presidency or of any Government in the Queen's Dominions, is the Queen's coin.

Illustrations.

(*a*) Cowries are not coin.

(*b*) Lumps of unstamped copper, though used as money, are not coin.

(*c*) Medals are not coin, inasmuch as they are not intended to be used as money.

(*d*) The coin denominated as the Company's Rupee is the Queen's coin.

Counterfeiting coin.

231. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Explanation.—A person commits this offence, who, intending to practise deception, or knowing it to be likely that deception will thereby be practised, causes a genuine coin to appear like a different coin.

Counterfeiting the Queen's coin.

232. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Making or selling instrument for counterfeiting coin.

233. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Making or selling instrument for counterfeiting Queen's coin.

234. Whoever makes or mends, or performs any part of the process of making or mending, or buys, sells, or disposes of, any die or instrument, for the purpose of being used, or knowing or having reason to believe that it is intended to be used for the purpose of counterfeiting the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Possession of instrument or material for the purpose of using the same for counterfeiting coin.

235. Whoever is in possession of any instrument or material, for the purpose of using the same for counterfeiting coin, or knowing or having reason to believe that the same is intended to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the coin to be counterfeited is the Queen's coin, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Abetting in India the counterfeiting out of India of coin.

236. Whoever, being within British India, abets the counterfeiting of coin out of British India, shall be punished in the same manner as if he abetted the counterfeiting of such coin within British India.

Import or expor of counterfeit coin.

237. Whoever imports into British India, or exports therefrom, any counterfeit coin, knowing or having reason to believe that the same is counterfeit,

shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Import or export of counterfeits of the Queen's coin.

238. Whoever imports into British India, or exports therefrom, any counterfeit coin, which he knows, or has reason to believe to be a counterfeit of the Queen's coin, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is counterfeit.

239. Whoever, having any counterfeit coin, which at the time when he became possessed of it he knew to be counterfeit, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of Queen's coin possessed with the knowledge that it is counterfeit.

240. Whoever, having any counterfeit coin which is a counterfeit of the Queen's coin, and which, at the time when he became possessed of it, he knew to be a counterfeit of the Queen's coin, fraudulently or with intent that fraud may be committed, delivers the same to any person, or attempts to induce any person to receive it, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Delivery to another of coin as genuine which when first possessed the deliverer did not know to be counterfeit.

241. Whoever delivers to any other person as genuine, or attempts to induce any other person to receive as genuine, any counterfeit coin, which he knows to be counterfeit, but which he did not know to be counterfeit at the time when he took it into his possession, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin counterfeited, or with both.

Illustration.

A, a coiner, delivers counterfeit Company's Rupees to his accomplice B, for the purpose of uttering them. B sells the Rupees to C, another utterer, who buys them knowing them to be counterfeit. C pays away the Rupees

for goods to D, who receives them not knowing them to be counterfeit. D, after receiving the Rupees, discovers that they are counterfeit, and pays them away as if they were good. Here D is punishable only under this Section but B and C are punishable under Section 239 or 240, as the case may be.

Possession of counterfeit coin by a person who knew it to be counterfeit when he became possessed thereof.

242. Whoever fraudulently, or with intent that fraud may be committed, is in possession of counterfeit coin, having known at the time when he became possessed thereof, that such coin was counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of Queen's coin by a person who knew it to be counterfeit when he became possessed thereof.

243. Whoever fraudulently, or with intent that fraud may be committed, is in possession of counterfeit coin, which is a counterfeit of the Queen's coin, having known at the time when he became possessed of it that it was counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Person employed in a mint causing coin to be of a different weight or composition from that fixed by law.

244. Whoever, being employed in any mint lawfully established in British India, does any act, or omits what he is legally bound to do, with the intention of causing any coin issued from that mint to be of a different weight or composition from the weight, or composition fixed by law, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine.

Unlawfully taking from a mint any coining instrument.

245. Whoever, without lawful authority, takes out of any mint lawfully established in British India, any coining tool or instrument, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulently or dishonestly diminishing the weight or altering the composition of any coin.

246. Whoever fraudulently or dishonestly performs on any coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Explanation.—A person who scoops out part of the coin, and puts any thing else into the cavity, alters the composition of that coin.

Fraudulently or dishonestly diminishing the weight or altering the composition of the Queen's coin.

247. Whoever fraudulently or dishonestly performs on any of the Queen's coin any operation which diminishes the weight or alters the composition of that coin, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Altering appearance of any coin with intent that it shall pass as a coin of a different description.

248. Whoever performs on any coin any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Altering appearance of the Queen's coin with intent that it shall pass as a coin of a different description.

249. Whoever performs on any of the Queen's coins any operation which alters the appearance of that coin, with the intention that the said coin shall pass as a coin of a different description, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Delivery to another of coin possessed with the knowledge that it is altered.

250. Whoever having coin in his possession with respect to which the offence defined in Section 246 or 248 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect to it, fraudulently or with intent that fraud may be committed, deliver such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery of Queen's coin possessed with the knowledge that it is altered.

251. Whoever having coin in his possession with respect to which the offence defined in Section 247 or 249 has been committed, and having known at the time when he became possessed of such coin that such offence had been committed with respect

to it, fraudulently or with intent that fraud may be committed delivers such coin to any other person, or attempts to induce any other person to receive the same, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Possession of altered coin by a person who knew it to be altered when he became possessed thereof.

252. Whoever fraudulently, or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 246 or 248 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Possession of Queen's coin by a person who knew it to be altered when he became possessed thereof.

253. Whoever fraudulently, or with intent that fraud may be committed, is in possession of coin with respect to which the offence defined in either of the Sections 247 or 249 has been committed, having known at the time of becoming possessed thereof that such offence had been committed with respect to such coin, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Delivery to another of coin as genuine, which, when first possessed, the deliverer did not know to be altered.

254. Whoever delivers to any other person as genuine, or as a coin of a different description from what it is, or attempts to induce any person to receive as genuine, or as a different coin from what it is, any coin in respect of which he knows that any such operation as that mentioned in Sections 246, 247, 248, or 249, has been performed, but in respect of which he did not at the time when he took it into his possession know that such operation had been performed, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine to an amount which may extend to ten times the value of the coin for which the altered coin is passed, or attempted to be passed.

Counterfeiting a Government Stamp.

255. Whoever counterfeits, or knowingly performs any part of the process of counterfeiting, any stamp issued by Government for the purpose of

revenue, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—A person commits this offence who counterfeits by causing a genuine stamp of one denomination to appear like a genuine stamp of a different denomination.

Having possession of an instrument or material for the purpose of counterfeiting a Government Stamp.

256. Whoever has in his possession any instrument or material for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or selling instrument for the purpose of counterfeiting a Government Stamp.

257. Whoever makes, or performs any part of the process of making, or buys, or sells, or disposes of, any instrument for the purpose of being used, or knowing or having reason to believe that it is intended to be used, for the purpose of counterfeiting any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Sale of counterfeit Government Stamp.

258. Whoever sells, or offers for sale, any stamp which he knows, or has reason to believe to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a counterfeit Government Stamp.

259. Whoever has in his possession any stamp which he knows to be a counterfeit of any stamp issued by Government for the purpose of revenue, intending to use or dispose of the same as a genuine stamp or in order that it may be used as a genuine stamp, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Using as genuine a Government Stamp known to be counterfeit.

260. Whoever uses as genuine any stamp, knowing it to be a counterfeit of any stamp issued by Government for the purpose of revenue, shall be punished with imprisonment of either

description for a term which may extend to seven years, or with fine, or with both.

Effacing any writing from a substance bearing a Government Stamp, or removing from a document a stamp used for it, with intent to cause loss to Government.

261. Whoever, fraudulently or with intent to cause loss to the Government, removes or effaces from any substance bearing any stamp issued by Government for the purpose of revenue, any writing or document for which such stamp has been used, or removes from any writing or document a stamp which has been used for such writing or document, in order that such stamp may be used for a different writing or document, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Using a Government Stamp known to have been before used.

262. Whoever, fraudulently or with intent to cause loss to the Government, uses for any purpose a stamp issued by Government for the purpose of revenue, which he knows to have been before used, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Erasure of mark denoting that stamp has been used.

263. Whoever, fraudulently or with intent to cause loss to Government, erases or removes from a stamp issued by Government for the purpose of revenue any mark put or impressed upon such stamp for the purpose of denoting that the same has been used, or knowingly has in his possession, or sells, or disposes of, any such stamp from which such mark has been erased or removed, or sells, or disposes of any such stamp which he knows to have been used, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XIII.

OF OFFENCES RELATING TO WEIGHING AND MEASURING.

264—267. Fraudulently using any instrument for weighing, knowing it to be false; and (265) using any false weight or false measure, or using weight or measure as different from what it is; and (266) having any instrument, weight or measure, knowing it to be false, intending the same to be fraudulently used; and (267) making, selling, &c., any instrument for weighing

weight or measure, to be used as true, &c., in all these cases, imprisonment of either kind, or fine, or both.

Fraudulent use of false instrument for weighing.

264. Whoever fraudulently uses any instrument for weighing, which he knows to be false, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulent use of false weight or measure.

265. Whoever fraudulently uses any false weight or false measure of length or capacity, or fraudulently uses any weight or any measure of length or capacity as a different weight or measure from what it is, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Being in possession of false weights or measures.

266. Whoever is in possession of any instrument for weighing, or of any weight, or of any measure of length or capacity, which he knows to be false, and intending that the same may be fraudulently used, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Making or selling false weights or measures.

267. Whoever makes, sells, or disposes of any instrument for weighing, or any weight, or any measure of length or capacity, which he knows to be false, in order that the same may be used as true, or knowing that the same is likely to be used as true, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Chapter XIV.

OF OFFENCES AFFECTING THE PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY, AND MORALS.

268. A public nuisance is any act or illegal omission which causes common injury, danger or annoyance to the public or people in general dwelling, &c., in the vicinity, or annoyance in regard to use of any public right. A nuisance is not excused by its causing some convenience.

269—270. Unlawfully or negligently doing any act, likely, &c., to spread the infection of disease dangerous to life, imprisonment of either kind, or fine, or both; and (270) "malignantly" committing the same offence, the same punishment of increased amount.

271. Knowingly disobeying any quarantine rule of government, imprisonment of either kind, or fine, or both.

272—273. Adulterating article of food or drink, so as to make it noxious, intending to sell it as food or drink, &c., imprisonment of either kind, or fine, or both; and (273) the same punishment for selling, &c., any such article which has been rendered noxious, &c., knowing it to have become so, &c.

274—276. Adulterating any drug or medicinal preparation, so as to lessen its efficacy, &c., or change its operation, &c., or knowing it likely to be sold, &c.; and (275) selling, &c., the same, or issuing it from any dispensary to any person ignorant of the adulteration; or (276) knowingly selling, &c., or issuing from any dispensary any drug, &c., as a different drug; in all these cases, imprisonment of either kind, or fine, or both.

277. Voluntarily corrupting or fouling the water of any public spring or reservoir, so as to render it less fit for its purpose, imprisonment of either kind, or fine or both.

278. Voluntarily vitiating the atmosphere in any place, so as to make it noxious to the health of inhabitants or passengers, &c., fine.

279. Driving or riding on public way so rashly or negligently as to endanger life, or put any person to risk, &c., imprisonment, or fine, or both.

280. Navigating any vessel in same manner with same danger and risk, same punishment.

281. Exhibiting any false light, mark, or buoy, intending, &c., to mislead any navigator, imprisonment of either kind, or fine, or both.

282. Knowingly or negligently conveying, &c., any person by water or vessel in such state, or so overloaded as to endanger life, imprisonment of either kind, or fine, or both.

283. Any one doing any act, or omitting, in regard to property under his charge, &c., and thereby causing danger, obstruction, &c., in any public way or line of navigation, liable to fine up to 200 Rupees.

284—287. Doing with any poisonous substance any act so rashly or negligently as to endanger life, or to be likely to cause hurt, &c., or omitting to take proper order with any such substance to guard against danger, &c.; and (285) the same acts and omissions in regard to fire or any combustible matter, with like probable danger and risk; and (286) the same acts and omissions in regard to any explosive substance, with the like probable danger and risk; and (287) the same acts and omissions in regard to any machinery with the like probable danger and risk—in each case, imprisonment of either kind, or fine, or both.

288. In pulling down or repairing any building knowingly, &c. omitting to guard against probable danger to life from the fall of the building, imprisonment, or fine, or both.

289. Knowingly or negligently omitting to guard against probable danger to life, or grievous hurt from any animal, imprisonment of either kind, or fine, or both.

290. Committing any public nuisance not specially provided against, fine up to 100 Rupees.

291. Repeating or continuing a public nuisance after inhibition by public servant not to repeat it, imprisonment, or fine, or both.

292—293. Selling, or distributing, or importing for sale, &c., or exhibiting to public view, or (293) having for purpose of sale any obscene book, &c., or attempting, &c., to do so, imprisonment of either kind, or fine, or both; but not to extend to representation, &c., on or in temples, &c., or for religious purposes.

294. Singing, reciting, or uttering, &c., in or near any public place any obscene song, &c., to the annoyance of others, imprisonment, or fine, or both.

Public nuisance.

268. A person is guilty of a public nuisance, who does any act, or is guilty of an illegal omission which causes any common injury, danger, or annoyance to the public or to the people in general, who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger, or annoyance to persons who may have occasion to use any public right.

A common nuisance is not excused on the ground that it causes some convenience or advantage.

Negligent act likely to spread infection of any disease dangerous to life.

269. Whoever unlawfully or negligently does any act which is, and which he knows or has reason to believe to be likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Malignant act likely to spread infection of any disease dangerous to life.

270. Whoever malignantly does any act which is, and which he knows, or has reason to believe to be likely to spread the infection of any disease dangerous to life, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disobedience to a quarantine rule.

271. Whoever knowingly disobeys any rule made and promulgated by the Government of India, or by any Government, for putting any vessel into a state of quarantine, or for regulating the intercourse of vessels in a state of quarantine with the shore, or with other vessels, or for regulating the intercourse between places where an infectious

disease prevails, and other places, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, or with both.

Adulteration of food or drink which is intended for sale.

272. Whoever adulterates any article of food or drink, so as to make such article noxious as food or drink, intending to sell such article as food or drink, or knowing it to be likely that the same will be sold as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Sale of noxious food or drink.

273. Whoever sells, or offers or exposes for sale as food or drink, any article which has been rendered or has become noxious, or is in a state unfit for food or drink; knowing or having reason to believe that the same is noxious as food or drink, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Adulteration of drugs.

274. Whoever adulterates any drug or medical preparation in such a manner as to lessen the efficacy, or change the operation of such drug or medical preparation, or to make it noxious, intending that it shall be sold or used for, or knowing it to be likely that it will be sold or used for any medicinal purpose, as if it had not undergone such adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Sale of adulterated drugs.

275. Whoever, knowing any drug or medical preparation to have been adulterated in such a manner as to lessen its efficacy, to change its operation or to render it noxious, sells the same, or offers or exposes it for sale, or issues it from any dispensary for medicinal purposes as unadulterated, or causes it to be used for medicinal purposes by any person not knowing of the adulteration, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

276. Whoever knowingly sells, or offers or exposes for sale, or issues from a dispensary for medicinal purposes, any drug or medical preparation, as a different drug or medical preparation, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Sale of any drug as a different drug or preparation.

277. Whoever voluntarily corrupts or fouls the water of any public spring or reservoir, so as to render it less fit for the purpose for which it is ordinarily used, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

Fouling the water of a public spring or reservoir.

278. Whoever voluntarily vitiates the atmosphere in any place so as to make it noxious to the health of persons in general dwelling, or carrying on business in the neighbourhood or passing along a public way, shall be punished with fine which may extend to five hundred Rupees.

Making atmosphere noxious to health.

279. Whoever drives any vehicle, or rides, on any public way in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine, which may extend to one thousand Rupees, or with both.

Rash driving or riding on a public way.

280. Whoever navigates any vessel in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Rash navigation of a vessel.

281. Whoever exhibits any false light, mark, or buoy, intending or knowing it to be likely that such exhibition will mislead any navigator, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Exhibition of a false light, mark, or buoy.

282. Whoever knowingly or negligently conveys, or causes to be conveyed for hire, any person by water in any vessel, when that vessel is in such a state or so loaded as to endanger the life of

Conveying person by water for hire in a vessel overloaded or unsafe.

that person, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Danger or obstruction in a public way or navigation.

283. Whoever, by doing any act, or by omitting to take order with any property in his possession or under his charge, causes danger, obstruction, or injury to any person in any public way or public line of navigation, shall be punished with fine which may extend to two hundred Rupees.

Negligent conduct with respect to any poisonous substance.

284. Whoever does, with any poisonous substance, any act in a manner so rash or negligent as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any poisonous substance in his possession as is sufficient to guard against any probable danger to human life from such poisonous substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Negligent conduct with respect to any fire or combustible matter.

285. Whoever does, with fire or any combustible matter, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any fire or any combustible matter in his possession as is sufficient to guard against any probable danger to human life from such fire or combustible matter, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Negligent conduct with respect to any explosive substance.

286. Whoever does, with any explosive substance, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any explosive substance in his possession as is sufficient to guard against any probable danger to human life from that substance, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

287. Whoever does, with any machinery, any act so rashly or negligently as to endanger human life, or to be likely to cause hurt or injury to any other person, or knowingly or negligently omits to take such order with any machinery in his possession or under his care as is sufficient to guard against any probable danger to human life from such machinery, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Negligent conduct with respect to any machinery in the possession or under the charge of the offender.

288. Whoever, in pulling down or repairing any building, knowingly or negligently omits to take such order with that building as is sufficient to guard against any probable danger to human life from the fall of that building, or of any part thereof, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Negligence with respect to pulling down or repairing buildings.

289. Whoever knowingly or negligently omits to take such order with any animal in his possession as is sufficient to guard against any probable danger to human life, or any probable danger of grievous hurt from such animal, shall be punished with imprisonment of either description for a term which may extend to six months, or with fine which may extend to one thousand Rupees, or with both.

Negligence with respect to any animal.

290. Whoever commits a public nuisance in any case not otherwise punishable by this Code, shall be punished with fine which may extend to two hundred Rupees.

Punishment for public nuisance.

291. Whoever repeats or continues a public nuisance, having been enjoined by any public servant who has lawful authority to issue such injunction not to repeat to continue such nuisance, shall be punished with simple imprisonment for a term which may extend to six months, or with fine, or with both.

Continuance of nuisance after injunction to discontinue.

292. Whoever sells or distributes, imports or prints for sale or hire, or wilfully exhibits to public view, any obscene book, pamphlet, paper, drawing, painting, representation, or figure, or attempts, or offers so to do,

Sale, &c., of obscene books.

shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Exception.—This Section does not extend to any representation sculptured, engraved, painted, or otherwise represented, on or in any temple, or on any car used for the conveyance of idols, or kept or used for any religious purpose.

Having in possession obscene book for sale or exhibition.

293. Whoever has in his possession any such obscene book or other thing as is mentioned in the last preceding Section for the purpose of sale, distribution or public exhibition, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Obscene songs.

294. Whoever sings, recites, or utters in or near any public place any obscene song, ballad, or words to the annoyance of others, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

CHAPTER XV.

OF OFFENCES RELATING TO RELIGION.

295. Destroying, damaging, or defiling any place of worship or object held sacred, &c., with intention of insulting the religion of any class, &c., imprisonment of either kind, or fine, or both.

296. Voluntarily causing disturbance to any assembly for religious worship or religious ceremonies, imprisonment of either kind, or fine, or both.

297—298. Trespassing on any place of worship, &c., or sepulture, &c., or causing indignity to any corpse, &c., with the intention, in each instance, to wound any one's feelings, or insult his religion, &c., imprisonment of either kind, or fine, or both; and (298) the same punishment for uttering any word, making any sound or gesture, or exhibiting any object, with intention to wound any one's religious feelings.

Injuring or defiling a place of worship, with intent to insult the religion of any class.

295. Whoever destroys, damages, or defiles any place of worship, or any object held sacred by any class of persons with the intention of thereby insulting the religion of any class of persons, or with the knowledge that any class of persons is likely to consider such destruction, damage, or defilement as an insult to their religion, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Disturbing a religious assembly.

296. Whoever voluntarily causes disturbance to any assembly lawfully engaged in the performance of religious worship, or religious ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Trespassing on burial places, &c.

297. Whoever, with the intention of wounding the feelings of any person, or of insulting the religion of any person, or with the knowledge that the feelings of any person are likely to be wounded, or that the religion of any person is likely to be insulted thereby, commits any trespass in any place of worship or on any place of sepulture, or any place set apart for the performance of funeral rites, or as a depository for the remains of the dead, or offers any indignity to any human corpse, or causes disturbance to any persons assembled for the performance of funeral ceremonies, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Uttering words, &c., with deliberate intent to wound the religious feelings of any person.

298. Whoever, with the deliberate intention of wounding the religious feelings of any person, utters any word or makes any sound in the hearing of that person, or makes any gesture in the sight of that person, or places any object in the sight of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XVI.

OF OFFENCES AFFECTING THE HUMAN BODY.

OF OFFENCES AFFECTING LIFE.

299. The causing of death by an act done with that intention, or with the intention of causing injury likely to be fatal, or with the known probability of such result, is culpable homicide. Illustrations. Explanations.

300. Culpable homicide is murder, (except as is herein excepted,) if the fatal act was done with the intention of killing; (2) or of doing such injury as was known to be likely to kill, or (3) as ordinarily would be sufficient to kill; or (4) as was so imminently dangerous as in all probability to do mortal injury or to kill. Illustrations. But (1) culpable homicide is not murder, if committed whilst deprived of self-control under grave and sudden provocation; if (1) the provocation was not sought or provoked by the offender; or (2) was not given by any legal act or public servant; or (3) in the

exercise of the right of private defence. Explanation. And (2) culpable homicide also is not murder, if committed in the exercise *bonâ fide* of the right of defence of person or property, though exceeding the right by law, if the defence was unpremeditated, and without intending more harm than was necessary. And (3) is not murder if the offender was a public servant acting for the advancement of public justice, and exceeded his powers only in good faith, believing what he did to be necessary, and being without malice. Also (4) is not murder when committed in a sudden fight, in heat of passion, without premeditation and without taking unfair advantage. Explanation. And (5) is not murder if the deceased being above eighteen suffers death or consents to the risk. Illustration.

301. Doing any thing intended or likely to cause death, and thereby committing culpable homicide, without intending the particular homicide, or knowing it was likely to be deemed the same offence as that which was intended or likely.

302. Murder is punishable with death, transportation for life, and fine.

303. Person under sentence of transportation, committing murder, shall be punished with death.

304. Culpable homicide, not amounting to murder, shall be punishable with transportation for life, imprisonment of either kind, and also with fine in the case specified, or with imprisonment of either kind, or fine, or both, in the case in that behalf specified.

305—306. The abetment of the offence of suicide by a person under eighteen, an insane or delirious person, or idiot, or intoxicated person, shall be punishable with death, transportation for life, imprisonment, also fine; and (306) with imprisonment of either kind and fine, if the suicide is by any person not of these descriptions.

307—308. Doing any act with such an intention or knowledge that, if death ensued, it would be murder, imprisonment of either kind and fine, and if hurt is caused, transportation for life, &c. Illustrations. And (308) if the intention or knowledge with which the act is done would, if death ensued, be culpable homicide not amounting to murder, imprisonment of either kind, or fine or both; or if hurt ensued, the same punishment of increased amount.

309. Attempting suicide, or doing any act towards it, simple imprisonment and fine.

310—311. Habitual association with others, for robbery or child-stealing by means of murder, is thuggery; and (311) any thug is punishable with transportation for life and fine.

Culpable homicide.

299. Whoever causes death by doing an act with the intention of causing death, or with the intention of causing such bodily injury as is likely to cause death or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

Illustrations.

(*a*) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in, and is killed. A has committed the offence of culpable homicide.

(*b*) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death, induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

(*c*) A, by shooting at a fowl with intent to kill and steal it, kills B, who is behind a bush; A not knowing that he was there. Here, although A was doing an unlawful act, he was not guilty of culpable homicide, as he did not intend to kill B, or to cause death by doing an act that he knew was likely to cause death.

Explanation 1.—A person who causes bodily injury to another who is laboring under a disorder, disease, or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2.—Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3.—The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

Murder.

300. Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death; or—

2ndly.—If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused; or—

3rdly.—If it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or—

4thly.—If the person committing the act knows that it is so imminently dangerous that it must in all probability cause death,

or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

Illustrations.

(*a*) A shoots Z with the intention of killing him. Z dies in consequence. A commits murder.

(*b*) A, knowing that Z is laboring under such a disease that a blow is likely to cause his death, strikes him with the intention of causing bodily injury. Z dies in consequence of the blow. A is guilty of murder, although the blow might not have been sufficient in the ordinary course of nature to cause the death of a person in a sound state of health. But if A, not knowing that Z is laboring under any disease, gives him such a blow as would not in the ordinary course of nature kill a person in a sound state of health, here A, although he may intend to cause bodily injury, is not guilty of murder, if he did not intend to cause death, or such bodily injury as in the ordinary course of nature would cause death.

(*c*) A intentionally gives Z a sword-cut or club-wound sufficient to cause the death of a man in the ordinary course of nature. Z dies in consequence. Here, A is guilty of murder, although he may not have intended to cause Z's death.

(*d*) A without any excuse fires a loaded cannon into a crowd of persons and kills one of them. A is guilty of murder, although he may not have had a premeditated design to kill any particular individual.

When culpable homicide is not murder.

Exception 1.—Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation causes the death of the person who gave the provocation, or causes the death of any other person by mistake or accident.

The above exception is subject to the following provisoes :—

First.—That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly.—That the provocation is not given by anything done in obedience to the law or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly.—That the provocation is not given by anything done in the lawful exercise of the right of private defence.

Explanation.—Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder, is a question of fact.

Illustrations.

(*a*) A, under the influence of passion excited by a provocation given by Z, intentionally kills Y, Z's child. This is murder, inasmuch as the provocation was not given by the child, and the death of the child was not caused by accident or misfortune in doing an act caused by the provocation.

(*b*) Y gives grave and sudden provocation to A. A, on this provocation, fires a pistol at Y, neither intending nor knowing himself to be likely to kill Z, who is near him, but out of sight. A kills Z. Here A has not committed murder, but merely culpable homicide.

(*c*) A is lawfully arrested by Z, a bailiff. A is excited to sudden and violent passion by the arrest, and kills Z. This is murder, inasmuch as the provocation was given by a thing done by a public servant in the exercise of his powers.

(*d*) A appears as a witness before Z, a Magistrate Z says that he does not believe a word of A's deposition and that A has perjured himself. A is moved to sudden passion by these words, and kills Z. This is murder.

(*e*) A attempts to pull Z's nose. Z, in the exercise of the right of private defence, lays hold of A to prevent him from doing so. A is moved to sudden and violent passion in consequence, and kills Z. This is murder, inasmuch as the provocation was given by a thing done in the exercise of the right of private defence.

(*f*) Z strikes B. B is by this provocation excited to violent rage. A, a bystander, intending to take advantage of B's rage and to cause him to kill Z, puts a knife into B's hand for that purpose. B kills Z with the knife. Here B may have committed only culpable homicide, but A is guilty of murder.

Exception 2.—Culpable homicide is not murder, if the offender, in the exercise, in good faith, of the right of private defence of person or property, exceeds the power given to him by law and causes the death of the person against whom he is exercising such right of defence without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defence.

Illustration.

Z attempts to horse-whip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that he can by no other means prevent himself from being horse-whipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3.—Culpable homicide is not murder, if the offender, being a public servant, or aiding a public servant, acting for the advancement of public justice, exceeds the powers given to him by law, and causes death by doing an act which he in good faith believes to be lawful and necessary for the due discharge of

his duty as such public servant, and without ill-will towards the person whose death is caused.

Exception 4.—Culpable homicide is not murder if it is committed without premeditation, in a sudden fight, in the heat of passion, upon a sudden quarrel, and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation.—It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5.—Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Illustration:

A, by instigation, voluntarily causes Z, a person, under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death. A has therefore abetted murder.

Culpable homicide by causing the death of a person other than the person whose death was intended.

301. If a person, by doing any thing which he intends or knows to be likely to cause death, commits culpable homicide by causing the death of any person, whose death he neither intends nor knows himself to be likely to cause, the culpable homicide committed by the offender is of the description of which it would have been if he had caused the death of the person whose death he intended or knew himself to be likely to cause.

Punishment for murder.

302. Whoever commits murder shall be punished with death, or transportation for life, and shall also be liable to fine.

Punishment for murder by a life convict.

303. Whoever, being under sentence of transportation for life, commits murder, shall be punished with death.

Punishment for culpable homicide not amounting to murder.

304. Whoever commits culpable homicide not amounting to murder, shall be punished with transportation for life, or imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine, if the act by which the death is caused is done with the intention of causing death, or of causing such bodily injury as is likely to cause death; or with imprisonment of either description, for a term which may extend to ten years, or with fine, or with both; if the act is done with the know-

ledge that it is likely to cause death, but without any intention to cause death, or to cause such bodily injury as is likely to cause death.

Abatement of suicide of child or insane person.

305. If any person under eighteen years of age, any insane person, any delirious person, any idiot, or any person in a state of intoxication, commits suicide, whoever abets the commission of such suicide, shall be punished with death or transportation for life, or imprisonment for a term not exceeding ten years, and shall also be liable to fine.

Abetment of suicide.

306. If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Attempt at murder.

307. Whoever does any act with such intention or knowledge and under such circumstances, that if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine; and if hurt is caused to any person by such act, the offender shall be liable either to transportation for life, or to such punishment as is hereinbefore mentioned.

Illustrations.

(*a*) A shoots at Z with intention to kill him, under such circumstances that, if death ensued, A would be guilty of murder. A is liable to punishment under this Section.

(*b*) A, with the intention of causing the death of a child of tender years, exposes it in a desert place. A has committed the offence defined by this Section, though the death of the child does not ensue.

(*c*) A, intending to murder Z, buys a gun and loads it. A has not yet committed the offence. A fires the gun at Z. He has committed the offence defined in this Section, and if by such firing he wounds Z, he is liable to the punishment provided by the latter part of this Section.

(*d*) A, intending to murder Z by poison, purchases poison, and mixes the same with food which remains in A's keeping; A has not yet committed the offence defined in this Section. A places the food on Z's table, or delivers it to Z's servants to place it on Z's table. A has committed the offence defined in this Section.

Attempt to commit culpable homicide.

308. Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with

imprisonment of either description, for a term which may extend to three years, or with fine, or with both; and if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

Illustration.

A, on grave and sudden provocation, fires a pistol at Z, under such circumstances that, if he thereby caused death, he would be guilty of culpable homicide not amounting to murder. A has committed the offence defined in this Section.

Attempt to commit suicide.

309. Whoever attempts to commit suicide, and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year, and shall also be liable to fine.

Thug.

310. Whoever at any time, after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing, by means of, or accompanied with murder, is a thug.

Punishment.

311. Whoever is a thug shall be punished with transportation for life, and shall also be liable to fine.

OF THE CAUSING OF MISCARRIAGE, OF INJURIES TO UNBORN CHILDREN, OF THE EXPOSURE OF INFANTS, AND OF THE CONCEALMENT OF BIRTHS.

312—314. Voluntarily causing a woman (herself or another) with child to miscarry, except to save life of woman, imprisonment of either kind, or fine, or both; and if the child be quick, an increased amount of same punishment; and (313) if done without the woman's consent, transportation for life or imprisonment of either kind and fine; and (314) if the death of the woman is caused, and was done without her consent, other modifications of punishment prescribed in Sections 313 and 314.

315—316. Intentionally preventing the birth of any child alive, or causing its death after birth, except to save the life of the mother, imprisonment of either kind, or fine, or both; and (316) if in the case of the quick unborn child, the circumstances are such that the offence would amount to homicide, imprisonment of either kind and fine.

317. Father or mother, or person having care of child under twelve, exposing it with intention to abandon it, imprisonment of either kind, or fine, or both. Explanation.

318. Secretly burying, &c., dead body of child, &c., with intention of concealing, &c., its birth, imprisonment of either kind, or fine, or both.

312. Whoever voluntarily causes a woman with child to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description, for a term which may extend to three years, or with fine, or with both; and if the woman be quick with child, shall be punished with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

Causing miscarriage.

Explanation.—A woman who causes herself to miscarry is within the meaning of this Section.

313. Whoever commits the offence defined in the last preceding Section, without the consent of the woman, whether the woman is quick with child or not, shall be punished with transportation for life, or with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Causing miscarriage without woman's consent.

314. Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine; and if the act is done without the consent of the woman, shall be punished either with transportation for life, or with the punishment abovementioned.

Death caused by an act done with intent to cause miscarriage.

If act done without woman's consent.

Explanation.—It is not essential to this offence that the offender should know that the act is likely to cause death.

315. Whoever, before the birth of any child, does any act with the intention of thereby preventing that child from being born alive, or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description, for a term which may extend to ten years, or with fine, or with both.

Act done with intent to prevent a child being born alive, or to cause it to die after birth.

316. Whoever does any act under such circumstances, that if he thereby caused death, he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child,

Causing death of a quick unborn child by an act amounting to culpable homicide.

shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Illustration.

A, knowing that he is likely to cause the death of a pregnant woman, does an act which, if it caused the death of the woman, would amount to culpable homicide. The woman is injured but does not die; but the death of an unborn quick child with which she is pregnant is thereby caused. A is guilty of the offence defined in this Section.

Exposure and abandonment of a child under twelve years by parent or person having care of it.

317. Whoever being the father or mother of a child under the age of twelve years, or having the care of such child shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description, for a term which may extend to seven years, or with fine, or with both.

Explanation.—This Section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

Concealment of birth by secret disposal of dead body.

318. Whoever, by secretly burying or otherwise disposing of the dead body of a child, whether such child die before or after or during its birth, intentionally conceals or endeavors to conceal the birth of such child, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

OF HURT.

319—320. To cause bodily pain, disease, or infirmity, is to cause hurt, of which (320) the following kinds are "grievous hurt," *viz.* (1) emasculation, (2) permanent privation of sight of either eye, of (3) hearing of either ear, of (4 and 5) any member or joint or of their powers, (6) permanent disfiguration of head or face, (7) fracture, &c., of a bone or tooth, (8) any hurt which endangers life or causes severe bodily pain, &c., for twenty days, &c., or inability for ordinary pursuits.

321—326. Doing any act, intending thereby, or knowing it likely to and thereby in fact causing hurt to any one, is said "voluntarily to cause hurt;" or (322) "grievious hurt," as the case may be. Explanation. And (323) the former, except under Section 334, shall be punishable with imprisonment, or fine, or both; and (324) if the hurt was caused by shooting, stabbing or cutting, or by any instrument, &c., likely to cause death, or by fire, heated substance, poison, corrosive substance, or substance deleterious to inhale, swallow,

receive into the blood, &c., or by means of any animal, an increased amount of same punishment; and (325) if the hurt is "grievous hurt," a still further increased amount of same punishment; and (326) if such "grievous hurt" is occasioned by any of the special means enumerated in Section 324, the punishment may be transportation for life, or imprisonment of either kind, and also fine.

327—329. Voluntarily causing hurt for purpose of extorting, &c., any property or security, or compelling an illegal act to be done, or facilitating commission of an offence, imprisonment of either kind and fine, and [328 *see post*] (329) voluntarily causing grievous hurt for same purposes, transportation for life, or imprisonment of either kind, and fine.

328. Administering or causing, &c., any stupefying, intoxicating, or unwholesome drug, &c., with intent to cause hurt, or to commit, &c., an offence, &c., imprisonment of either kind and fine.

330—331. Voluntarily causing hurt for purpose of extorting any confession or information which may lead to detection of an offence, &c., or thereby procuring the restoration of property or of any security, or of getting satisfaction of any claim, &c., imprisonment of either kind and fine. Illustrations. And (331) if the hurt be grievous hurt, caused for those purposes, an increased amount of same punishment.

332—333. Voluntarily causing hurt to public servant in discharge of his duty, or to prevent discharge of duty, &c., imprisonment of either kind, or fine, or both; and (333) if the hurt be grievous hurt, caused for those purposes an increased amount of same punishment.

334—335. Voluntarily causing hurt on grave and sudden provocation, without intending it for any other person, except who gave the provocation, imprisonment of either kind, or fine, or both; and (335) if the hurt be grievous hurt under the same circumstances, an increased amount of same punishment. Explanation.

336—338. Doing any act so rashly or negligently as to endanger the life or safety of others; and (337) causing hurt to any person by so doing such act; or (338) causing grievous hurt to any person by so doing such act—imprisonment of either kind, and fine, or both, to be increased for offence under 337, and further increased under 338.

Hurt.

319. Whoever causes bodily pain, disease, or infirmity to any person, is said to cause hurt.

Grievous hurt.

320. The following kinds of hurt only are designated as "grievous":—

First.—Emasculation.

Secondly.—Permanent privation of the sight of either eye.

Thirdly.—Permanent privation of the hearing of either ear.

Fourthly.—Privation of any member or joint.

Fifthly.—Destruction or permanent impairing of the powers of any member or joint.

Sixthly.—Permanent disfiguration of the head or face.

Seventhly.—Fracture or dislocation of a bone or tooth.

Eighthly.—Any hurt which endangers life or which causes the sufferer to be, during the space of twenty days, in severe bodily pain, or unable to follow his ordinary pursuits.

Voluntarily causing hurt.

321. Whoever does any act with the intention of thereby causing hurt to any person, or with the knowledge that he is likely thereby to cause hurt to any person, and does thereby cause hurt to any person, is said "voluntarily to cause hurt."

Voluntarily causing grievous hurt.

322. Whoever voluntarily causes hurt, if the hurt which he intends to cause or knows himself to be likely to cause is grievous hurt, and if the hurt which he causes is grievous hurt, is said "voluntarily to cause grievous hurt."

Explanation.—A person is not said voluntarily to cause grievous hurt, except when he both causes grievous hurt, and intends or knows himself to be likely to cause grievous hurt. But he is said voluntarily to cause grievous hurt, if intending or knowing himself to be likely to cause grievous hurt of one kind, he actually causes grievous hurt of another kind.

Illustration.

A, intending or knowing himself to be likely permanently to disfigure Z's face, gives Z a blow, which does not permanently disfigure Z's face, but which causes Z to suffer severe bodily pain for the space of twenty days. A has voluntarily caused grievous hurt.

Punishment for voluntarily causing hurt.

323. Whoever, except in the case provided for by Section 334, voluntarily causes hurt, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, which may extend to one thousand Rupees, or with both.

Voluntarily causing hurt by dangerous weapons or means.

324. Whoever, except in the case provided for by Section 334, voluntarily causes hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument, which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive

substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with imprisonment of either description, for a term which may extend to three years, or with fine, or with both.

Punishment for voluntarily causing grievous hurt.

325. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt, shall be punished with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

Voluntarily causing grievous hurt by dangerous weapons or means.

326. Whoever, except in the case provided by Section 335, voluntarily causes grievous hurt by means of any instrument for shooting, stabbing, or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to receive into the blood, or by means of any animal, shall be punished with transportation for life, or with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort property or to constrain to an illegal act.

327. Whoever voluntarily causes hurt for the purpose of extorting from the sufferer, or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do anything which is illegal, or which may facilitate the commission of an offence, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Causing hurt by means of poison, &c., with intent to commit an offence.

328. Whoever administers to or causes to be taken by any person any poison or any stupefying, intoxicating, or unwholesome drug, or other thing, with intent to cause hurt to such person, or with intent to commit or to facilitate the commission of an offence, or knowing it to be likely that he will thereby cause hurt, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing grievous hurt to extort property or to constrain to an illegal act.

329. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or from any person interested in the sufferer, any property or valuable security, or of constraining the sufferer or any person interested in such sufferer to do any thing that is illegal or which may facilitate the commission of an offence, shall be punished with transportation for life, or imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to extort confession or to compel restoration of property.

330. Whoever voluntarily causes hurt, for the purpose of extorting from the sufferer, or any person interested in the sufferer, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer, or any person interested in the sufferer, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

Illustrations.

(*a*) A, a police officer, tortures Z, in order to induce Z to confess that he committed a crime. A is guilty of an offence under this Section.

(*b*) A, a police officer, tortures B, to induce him to point out where certain stolen property is deposited. A is guilty of an offence under this Section.

(*c*) A, a revenue officer, tortures Z, in order to compel him to pay certain arrears of revenue due from Z. A is guilty of an offence under this Section.

(*d*) A, a zemindar, tortures a ryot, in order to compel him to pay his rent. A is guilty of an offence under this Section.

Voluntarily causing grievous hurt to extort confession, or to compel restoration of property.

331. Whoever voluntarily causes grievous hurt for the purpose of extorting from the sufferer or any person interested in the sufferer any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the sufferer or any person interested in the sufferer to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may

lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt to deter public servant from his duty.

332. Whoever voluntarily causes hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of anything done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description, for a term which may extend to three years, or with fine, or with both.

Voluntarily causing grievous hurt to deter public servant from his duty.

333. Whoever voluntarily causes grievous hurt to any person being a public servant in the discharge of his duty as such public servant, or with intent to prevent or deter that person or any other public servant from discharging his duty as such public servant, or in consequence of any thing done or attempted to be done by that person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Voluntarily causing hurt on provocation.

334. Whoever voluntarily causes hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description, for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both.

Causing grievous hurt on provocation.

335. Whoever causes grievous hurt on grave and sudden provocation, if he neither intends nor knows himself to be likely to cause grievous hurt to any person other than the person who gave the provocation, shall be punished with imprisonment of either description, for a term which may extend to four years, or with fine which may extend to two thousand Rupees, or with both.

Explanation.—The last two Sections are subject to the same provisoes as Exception 1, Section 300.

Punishment for act which endangers life or the personal safety of others.

336. Whoever does any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description, for a term which may extend to three months, or with fine which may extend to two hundred and fifty Rupees, or with both.

Causing hurt by an act which endangers life or the personal safety of others.

337. Whoever causes hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description, for a term which may extend to six months, or with fine which may extend to five hundred Rupees, or with both.

Causing grievous hurt by an act which endangers life or the personal safety of others.

338. Whoever causes grievous hurt to any person by doing any act so rashly or negligently as to endanger human life or the personal safety of others, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine which may extend to one thousand Rupees, or with both.

OF WRONGFUL RESTRAINT AND WRONGFUL CONFINEMENT.

339—348. Voluntarily obstructing and thereby preventing any one from going in a direction in which he has a right to proceed is "wrongfully restraining" him, except it be the obstruction of a private way in a belief of right. Illustrations. And (340) wrongfully restraining a person and thereby preventing his proceeding beyond certain circumscribed limits is "wrongfully to confine" him. Illustrations. And (341) the former is punishable with simple imprisonment, or fine, or both; the latter (342) with imprisonment of either kind, or fine, or both; and (343) an increased amount, if the confinement is for 3 days or more; and (344) a still further increased amount if it is for 10 days or more; and (345) if the confinement is continued with knowledge that a writ of liberation has issued; and also (346) if the confinement is aggravated by means intended to conceal it from any person interested or from any public servant, the offence is punishable with imprisonment of either kind in addition to any other punishment applicable under this Code; and (347) if the confinement is for the purpose of extorting money or property, or compelling an illegal act, or extorting information to facilitate the commission of an offence; or (348) to lead to the detection of an offence, or procure the restoration of property, or to satisfy any claim, &c., in either case imprisonment of either kind and fine.

339. Whoever voluntarily obstructs any person so as to prevent that person from proceeding in any direction in which that person has a right to proceed, is said wrongfully to restrain that person.

Wrongful restraint.

Exception.—The obstruction of a private way over land or water which a person in good faith believes himself to have a lawful right to obstruct, is not an offence within the meaning of this Section.

Illustration.

A obstructs a path along which Z has a right to pass, A not believing in good faith that he has a right to stop the path. Z is thereby prevented from passing. A wrongfully restrains Z.

340. Whoever wrongfully restrains any person in such a manner as to prevent that person from proceeding beyond certain circumscribing limits, is said "wrongfully to confine" that person.

Wrongful confinement.

Illustrations.

(*a*) A causes Z to go within a walled space, and locks Z in. Z is thus prevented from proceeding in any direction beyond the circumscribing line of wall. A wrongfully confines Z.

(*b*) A places men with fire-arms at the outlets of a building, and tells Z that they will fire at Z if Z attempts to leave the building. A wrongfully confines Z.

341. Whoever wrongfully restrains any person, shall be punished with simple imprisonment for a term which may extend to one month, or with fine which may extend to five hundred Rupees, or with both.

Punishment for wrongful restraint.

342. Whoever wrongfully confines any person shall be punished with imprisonment of either description, for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

Punishment for wrongful confinement.

343. Whoever wrongfully confines any person for three days or more, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Wrongful confinement for three or more days.

344. Whoever wrongfully confines any person for ten days, or more, shall be punished with imprisonment of either description, for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for ten or more days.

Wrongful confinement of person, for whose liberation a writ has been issued.

345. Whoever keeps any person in wrongful confinement, knowing that a writ for the liberation of that person has been duly issued, shall be punished with imprisonment of either description, for a term which may extend to two years, in addition to any term of imprisonment to which he may be liable under any other Section of this Code.

Wrongful confinement in secret.

346. Whoever wrongfully confines any person in such a manner as to indicate an intention that the confinement of such person may not be known to any person interested in the person so confined, or to any public servant, or that the place of such confinement may not be known to or discovered by any such person or public servant as herein before mentioned, shall be punished with imprisonment of either description, for a term which may extend to two years, in addition to any other punishment to which he may be liable for such wrongful confinement.

Wrongful confinement for the purpose of extorting property or constraining to an illegal act.

347. Whoever wrongfully confines any person for the purpose of extorting from the person confined, or from any person interested in the person confined, any property or valuable security, or of constraining the person confined or any person interested in such person to do any thing illegal, or to give any information which may facilitate the commission of any offence, shall be punished with imprisonment of either description, for a term which may extend to three years, and shall also be liable to fine.

Wrongful confinement for the purpose of extorting confession or of compelling restoration of property.

348. Whoever wrongfully confines any person for the purpose of extorting from the person confined or any person interested in the person confined, any confession or any information which may lead to the detection of an offence or misconduct, or for the purpose of constraining the person confined or any person interested in the person confined, to restore or to cause the restoration of any property or valuable security, or to satisfy any claim or demand, or to give information which may lead to the restoration of any property or valuable security, shall be punished with imprisonment of either description, for a term which may extend to three years, and shall also be liable to fine.

OF CRIMINAL FORCE AND ASSAULT.

349—350. Using force is to cause the feeling of motion in any way in which motion can be impressed; (1) by means of bodily power; (2) by means of any substance having the power of stopping or causing motion; (3) by means of any animal; and (350) intentionally using force to any one without his consent, in order to committing an offence, or to cause injury, fear, &c., is using "criminal force." Illustrations.

351—353. Making gestures, &c., to cause the apprehension of criminal force, is an assault. Explanation. Illustrations. And (352) assaulting or using criminal force, except on grave and sudden provocation, punishable with imprisonment of either kind, or fine, or both; but provocation sought, or provoked, or by a public servant as such, or in the exercise of a right, will not excuse; and (353) assaulting or using criminal force to a public servant as such, imprisonment of either kind, or fine, or both.

354—356. Assaulting or using criminal force to any woman to outrage her modesty; or (355) to any person to dishonor that person, except on grave and sudden provocation; or (356) to any person in attempting to commit theft on the person, imprisonment, or fine, or both.

357—358. Assaulting or using criminal force to any one in attempting to confine him, imprisonment, or fine, or both; or (358) to any one on grave and sudden provocation, but not such as excuses, simple imprisonment, or fine, or both.

Force.

349. A person is said to use force to another if he causes motion, change of motion, or cessation of motion to that other, or if he causes to any substance such motion, or change of motion, or cessation of motion as brings that substance into contact with any part of that other's body, or with anything which that other is wearing or carrying, or with anything so situated, that such contact affects that other's sense of feeling: provided that the person causing the motion, or change of motion, or cessation of motion, causes that motion, change of motion, or cessation of motion in one of the three ways hereinafter described.—

First.—By his own bodily power.

Secondly.—By disposing any substance in such a manner that the motion, or change, or cessation of motion, takes place without any further act on his part, or on the part of any other person.

Thirdly.—By inducing any animal to move, to change its motion, or to cease to move.

Criminal force.

350. Whoever intentionally uses force to any person, without that person's consent, in order to the committing of any offence, or intending by the

use of such force to cause, or knowing it to be likely that by the use of such force he will cause injury, fear, or annoyance to the person to whom the force is used, is said to use criminal force to that other.

Illustrations.

(*a*) Z is sitting in a moored boat on a river. A unfastens the moorings, and thus intentionally causes the boat to drift down the stream. Here A intentionally causes motion to Z, and he does this by disposing substances in such a manner that the motion is produced without any other act on any person's part. A has therefore intentionally used force to Z; and if he has done so without Z's consent, in order to the committing of any offence, or intending or knowing it to be likely that this use of force will cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(*b*) Z is riding in a chariot. A lashes Z's horses, and thereby causes them to quicken their pace. Here A has caused change of motion to Z by inducing animals to change their motion. A has therefore used force to Z; and if A has done this without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, A has committed criminal force to Z.

(*c*) Z is riding in a palanquin. A, intending to rob Z, seizes the pole and stops the palanquin. Here A has caused cessation of motion to Z, and he has done this by his own bodily power. A has therefore used force to Z and as A has acted thus intentionally, without Z's consent, in order to the commission of an offance, A has used criminal force to Z.

(*d*) A intentionally pushes against Z in the street. Here A has by his own bodily power moved his own person so as to bring it into contact with Z. He has therefore intentionally used force to Z, and if he has done so without Z's consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy Z, he has used criminal force to Z.

(*e*) A throws a stone, intending or knowing it to be likely that the stone will be thus brought into contact with Z, or with Z's clothes, or with something carried by Z, or that it will strike water, and dash up the water against Z's clothes, or something carried by Z.

Here, if the throwing of the stone produce the effect of causing any substance to come into contact with Z, or Z's clothes, A has used force to Z and if he did so without Z's consent, intending thereby to injure, frighten, or annoy Z, he has used criminal force to Z.

(*f*) A intentionally pulls up a woman's veil. Here A intentionally uses force to her; and if he does so without her consent, intending or knowing it to be likely that he may thereby injure, frighten, or annoy her, he has used criminal force to her.

(*g*) Z is bathing. A pours into the bath water which he knows to be boiling. Here A intentionally, by his own bodily power, causes such motion in the boiling water as brings that water into contact with Z, or with other water so situated that such contact must affect Z's sense of feeling: A has

therefore intentionally used force to Z; and if he has done this without Z's consent, intending or knowing it to be likely that he may thereby cause injury, fear, or annoyance to Z, A has used criminal force to Z.

(*h*) A incites a dog to spring upon Z, without Z's consent. Here, if A intends to cause injury, fear, or annoyance to Z, he uses criminal force to Z.

Assault.

351. Whoever makes any gesture, or any preparation, intending or knowing it to be likely that such gesture or preparation will cause any person present to apprehend that he who makes that gesture or preparation is about to use criminal force to that person, is said to commit an assault.

Explanation.—Mere words do not amount to an assault. But the words which a person uses may give to his gestures or preparation such a meaning as may make those gestures or preparations amount to an assault.

Illustrations.

(*a*) A shakes his fist at Z, intending or knowing it be likely that he may thereby cause Z to believe that A is about to strike Z. A has committed an assault.

(*b*) A begins to unloose the muzzle of a ferocious dog, intending, or knowing it to be likely that he may thereby cause Z to believe that he is about to cause the dog to attack Z. A has committed an assault upon Z.

(*c*) A takes up a stick, saying to Z, "I will give you a beating." Here, though the words used by A could in no case amount to an assault, and though the mere gesture, unaccompanied by any other circumstances, might not amount to an assault, the gesture explained by the words may amount to an assault.

Punishment for using criminal force otherwise than on grave provocation.

352. Whoever assaults or uses criminal force to any person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, which may extend to five hundred Rupees, or with both.

Explanation.—Grave and sudden provocation will not mitigate the punishment for an offence under this Section, if the provocation is sought or voluntarily provoked by the offender as an excuse for the offence; or—

If the provocation is given by any thing done in obedience to the law or by a public servant in the lawful exercise of the powers of such public servant; or—

If the provocation is given by any thing done in the lawful exercise of the right of private defence.

Whether the provocation was grave and sudden enough to mitigate the offence, is a question of fact.

Using criminal force to deter a public servant from discharge of his duty.

353. Whoever assaults or uses criminal force to any person being a public servant in the execution of his duty as such public servant, or with intent to prevent or deter that person from discharging his duty as such public servant, or in consequence of any thing done or attempted to be done by such person in the lawful discharge of his duty as such public servant, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Assault or use of criminal force to a woman with intent to outrage her modesty.

354. Whoever assaults or uses criminal force to any woman, intending to outrage, or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Assault or criminal force with intent to dishonor a person, otherwise than on grave provocation.

355. Whoever assaults or uses criminal force to any person, intending thereby to dishonor that person otherwise than on grave and sudden provocation given by that person, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt to commit theft of property carried by a person.

356. Whoever assaults or uses criminal force to any person, in attempting to commit theft on any property which that person is then wearing or carrying, shall be punished with imprisonment of either description, for a term which may extend to two years, or with fine, or with both.

Assault or criminal force in attempt wrongfully to confine person.

357. Whoever assaults or uses criminal force to any person, in attempting wrongfully to confine that person, shall be punished with imprisonment of either description, for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

Assaulting or using criminal force on grave provocation.

358. Whoever assaults or uses criminal force to any person on grave and sudden provocation given by that person, shall be punished with simple imprisonment, for a term which may extend to

one month, or with fine which may extend to two hundred Rupees, or with both.

Explanation.—The last Section is subject to the same explanation as Section 352.

OF KIDNAPPING, ABDUCTING, SLAVERY, AND FORCED LABOR.

359—361. Kidnapping is (1) from British India; (2) from lawful guardianship; and (360) any one conveying any one from British India without lawful consent, kidnaps; and (361) it is kidnapping also to take or entice any minor under 14 if male, or 16 if female, or any insane, out of care of lawful guardian, without consent.

362. Abducting is by force or deceitful means compelling or inducing any person to go from any place.

363—367. Kidnapping of either kind is punishable with imprisonment of either kind and fine; and (364) kidnapping or abducting to murder, &c., transportation for life, or imprisonment of either kind and fine. Illustrations. And (365) kidnapping or abducting any one with intent to confine him; or (366) kidnapping or abducting a woman with intent that she may be compelled to marry, or be seduced, or forced to illicit intercourse, &c.; or (367) kidnapping or abducting any one to bring him to grievous hurt or slavery, or to the unnatural lust of any one, &c., imprisonment of either description and fine, of specified amounts.

368. Knowing a person has been kidnapped or abducted, and wrongfully concealing, or confining him, same punishment as for kidnapping or abduction.

369. Kidnapping or abducting any child under 10 with intention of stealing from such child, imprisonment of either kind and fine.

370—371. Importing, exporting, removing, buying, selling, disposing of, accepting, receiving, or detaining any one as a slave, imprisonment of either kind, and fine; and (371) habitually doing the same things or dealing in slaves, transportation for life, or imprisonment of either kind, and fine.

372—373. Selling, letting to hire, or otherwise disposing of any minor under 16, with intent to be used for prostitution or unlawful or immoral purpose; or (373) buying, hiring, or otherwise obtaining such minor for same purpose, imprisonment of either kind, and fine.

374. Unlawfully compelling any person to labor against his will, imprisonment of either kind, or fine, or both.

Kidnapping.

359. Kidnapping is of two kinds; kidnapping from British India, and kidnapping from lawful guardianship.

Kidnapping from British India.

360. Whoever conveys any person beyond the limits of British India without the consent of that person, or of some person legally authorized to

consent on behalf of that person, is said to kidnap that person from British India.

Kidnapping from lawful guardianship.

361. Whoever takes or entices any minor under fourteen years of age, if a male, or under sixteen years of age, if a female, or any person of unsound mind, out of the keeping of the lawful guardian of such minor or person of unsound mind, without the consent of such guardian, is said to kidnap such minor or person from lawful guardianship.

Explanation.—The words "lawful guardian" in this Section include any person lawfully entrusted with the care or custody of such minor or other person.

Exception.—This Section does not extend to the act of any person who in good faith believes himself to be the father of an illegitimate child, or who in good faith believes himself to be entitled to the lawful custody of such child, unless such act is committed for an immoral or unlawful purpose.

Abduction.

362. Whoever by force compels, or by any deceitful means induces any person to go from any place, is said to abduct that person.

Punishment for kidnapping.

363. Whoever kidnaps any person from British India, or from lawful gardianship, shall be punished with imprisonment of either description, for a term which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting in order to murder.

364. Whoever kidnaps or abducts any person, in order that such person may be murdered, or may be so disposed of as to be put in danger of being murdered, shall be punished with transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a*) A kidnaps Z from British India, intending or knowing it to be likely that Z may be sacrificed to an idol. A has committed the offence defined in this Section.

(*b*) A forcibly carries or entices B away from his home, in order that B may be murdered. A has committed the offence defined in this Section.

Kidnapping or abducting, with intent secretly and wrongfully to confine a person.

365. Whoever kidnaps or abducts any person with intent to cause that person to be secretly and wrongfully confined, shall be punished with imprisonment of either description for a term

which may extend to seven years, and shall also be liable to fine.

Kidnapping or abducting a woman to compel her marriage, &c.

366. Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Kidnapping or abducting, in order to subject a person to grievous hurt, slavery, &c.

367. Whoever kidnaps or abducts any person, in order that such person may be subjected, or may be so disposed of as to be put in danger of being subjected to grievous hurt, or slavery, or to the unnatural lust of any person, or knowing it to be likely that such person will be so subjected or disposed of, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Wrongfully concealing or keeping in confinement a kidnapped person.

368. Whoever, knowing that any person has been kidnapped or has been abducted, wrongfully conceals or confines such person, shall be punished in the same manner as if he had kidnapped or abducted such person with the same intention or knowledge, or for the same purpose as that with or for which he conceals or detains such person in confinement.

Kidnapping or abducting child under ten years, with intent to steal moveable property from the person of such child.

369. Whoever kidnaps or abducts any child under the age of ten years, with intention of taking dishonestly any moveable property from the person of such child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Buying or disposing of any person as a slave.

370. Whoever imports, exports, removes, buys, sells, or disposes of, any person as a slave, or accepts, receives, or detains against his will any person as a slave, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Habitual dealing in slaves.

371. Whoever habitually imports, exports, removes, buys, sells, traffics, or deals in slaves, shall be punished with transportation for life, or with impri-

sonment of either description for a term not exceeding ten years, and shall also be liable to fine.

Selling of any minor for purposes of prostitution, &c.

372. Whoever sells, lets to hire, or otherwise disposes of any minor under the age of sixteen years with intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Buying of any minor for purposes of prostitution.

373. Whoever buys, hires, or otherwise obtains possession of any minor under the age of sixteen years, with intent that such minor shall be employed or used for the purpose of prostitution, or for any unlawful and immoral purpose, or knowing it to be likely that such minor will be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Unlawful compulsory labor.

374. Whoever unlawfully compels any person to labor against the will of that person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

OF RAPE.

375. Committing rape is sexual intercourse with a woman, (1) against her will; (2) without her consent; (3) with consent obtained by fear of death, &c.; (4) or given under the false belief that the man is her husband, he knowing he is not; (5) or given by a child under 10. Explains the term "sexual intercourse." Exception.

376. Committing rape, transportation for life or imprisonment and fine.

Rape.

375. A man is said to commit "rape," who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the five following descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her in fear of death, or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With or without her consent, when she is under ten years of age.

Explanation.—Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.— Sexual intercourse by a man with his own wife, the wife not being under ten years of age, is not rape.

Punishment for rape.

376. Whoever commits rape shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

OF UNNATURAL OFFENCES.

377. Voluntarily having carnal intercourse against the order of nature with man, woman or animal, transportation for life, imprisonment of either kind and fine.

Unnatural offences.

377. Whoever voluntarily has carnal intercourse against the order of nature with any man, woman, or animal, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Explanation.—Penetration is sufficient to constitute the carnal intercourse necessary to the offence described in this Section.

CHAPTER XVII.

OFFENCES AGAINST PROPERTY.

OF THEFT.

378. Theft is the intending to take dishonestly any moveable property without consent of the possessor of it, and moving it in order to taking. Explanation, (1) of the subject of theft; (2) of the moving; (3 and 4) of the causing to move; (5) of the consent. Illustrations.

379—381. Committing theft, imprisonment of either kind, or fine or both; and (380) in any building, &c., used as a human dwelling, imprisonment for longer term and fine; or (381) by a clerk or servant the same punishment.

382. Committing theft, under circumstances which show preparation to commit violence for purposes specified, rigorous imprisonment and fine. Illustrations.

Theft.

378. Whoever, intending to take dishonestly any moveable property out of the possession of any person without that person's consent, moves that property in order to such taking, is said to commit theft.

Explanation 1.—A thing so long as it is attached to the earth not being moveable property, is not the subject of theft; but it becomes capable of being the subject of theft as soon as it is severed from the earth.

Explanation 2.—A moving effected by the same act which effects the severance may be a theft.

Explanation 3.—A person is said to cause a thing to move by removing an obstacle which prevented it from moving, or by separating it from any other thing, as well as by actually moving it.

Explanation 4.—A person, who by any means causes an animal to move, is said to move that animal, and to move every thing which, in consequence of the motion so caused, is moved by that animal.

Explanation 5.—The consent mentioned in the definition may be express or implied, and may be given either by the person in possession, or by any person having for that purpose authority either express or implied.

Illustrations.

(*a*) A cuts down a tree on Z's ground, with the intention of dishonestly taking the tree out of Z's possession, without Z's consent. Here, as soon as A has severed the tree, in order to such taking, he has committed theft.

(*b*) A puts a bait for dogs in his pocket, and thus induces Z's dog to follow it. Here, if A's intention be dishonestly to take the dog out of Z's possession without Z's consent, A has committed theft as soon as Z's dog has begun to follow A.

(*c*) A meets a bullock carrying a box of treasure. He drives the bullock in a certain direction, in order that he may dishonestly take the treasure. As soon as the bullock begins to move, A has committed theft of the treasure.

(*d*) A, being Z's servant, and entrusted by Z with the care of Z's plate, dishonestly runs away with the plate, without Z's consent. A has committed theft.

(*e*) Z, going on a journey, entrusts his plate to A, the keeper of a warehouse, till Z shall return. A carries the plate to a goldsmith and sells it. Here the plate was not in Z's possession. It could not therefore be taken out of Z's possession, and A has not committed theft, though he may have committed criminal breach of trust.

(*f*) A finds a ring belonging to Z on a table in the house which Z occupies. Here the ring is in Z's possession, and if A dishonestly removes it, A commits theft.

(*g*) A finds a ring lying on the high-road, not in the possession of any person. A by taking it commits no theft, though he may commit crimina misappropriation of property.

(*h*) A sees a ring belonging to Z lying on a table in Z's house. Not venturing to misappropriate the ring immediately for fear of search and detection A hides the ring in a place where it is highly improbable that it will ever be found by Z, with the intention of taking the ring from the hiding place and selling it when the loss is forgotten. Here A, at the time of first moving the ring, commits theft.

(*i*) A delivers his watch to Z, a jeweller, to be regulated. Z carries it to his shop. A, not owing to the jeweller any debt for which the jeweller might lawfully detain the watch as a security, enters the shop openly, takes his watch by force out of Z's hand, and carries it away. Here A, though he may have committed criminal trespass and assault, has not committed theft, inasmuch as what he did was not done dishonestly.

(*j*) If A owes money to Z for repairing the watch, and if Z retains the watch lawfully as a security for the debt, and A takes the watch out of Z's possession, with the intention of depriving Z of the property as a security for his debt, he commits theft, inasmuch as he takes it dishonestly.

(*k*) Again if A, having pawned his watch to Z, takes it out of Z's possession without Z's consent, not having paid what he had borrowed on the watch, he commits theft, though the watch is his own property, inasmuch as he takes it dishonestly.

(*l*) A takes an article belonging to Z out of Z's possession, without Z's consent, with the intention of keeping it until he obtains money from Z as a reward for its restoration. Here A takes dishonestly. A has therefore committed theft.

(*m*) A being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent, for the purpose merely of reading it, and with the intention of returning it. Here, it is probable that A may have conceived that he had Z's implied consent to use Z's book. If this was A's impression, A has not committed theft.

(*n*) A asks charity from Z's wife. She gives A money, food, and clothes, which A knows to belong to Z her husband. Here, it is probable that A may conceive that Z's wife is authorized to give away alms. If this was A's impression, A has not committed theft.

(*o*) A is the paramour of Z's wife. She gives a valuable property which A knows to belong to her husband Z, and to be such property as she has not authority from Z to give. If A takes the property dishonestly, he commits theft.

(*p*) A in good faith, believing property belonging to Z to be A's own property, takes that property out of B's possession. Here, as A does not take pishonestly, he does not commit theft.

Punishment for theft.

379. Whoever commits theft shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Theft in dwelling-house, &c.

380. Whoever commits theft in any building, tent, or vessel, which building, tent, or vessel, is used as a human dwelling, or for the custody of property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft by clerk or servant of property in possession of master.

381. Whoever, being a clerk or servant, or being employed in the capacity of a clerk or servant, commits theft in respect of any property in the possession of his master or employer, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Theft after preparation made for causing death or hurt, in order to the committing of the theft.

382. Whoever commits theft, having made preparation for causing death, or hurt, or restraint, or fear of death or of hurt, or of restraint, to any person, in order to the committing of such theft, or in order to the effecting of his escape after the committing of such theft, or in order to the retaining of property taken by such theft, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Illustrations.

(*a*) A commits theft on property in Z's possession; and while committing this theft, he has a loaded pistol under his garment, having provided this pistol for the purpose of hurting Z in case Z should resist. A has committed the offence defined in this Section.

(*b*) A picks Z's pocket, having posted several of his companions near him,

in order that they may restrain Z, if Z should perceive what is passing and should resist, or should attempt to apprehend A. A has committed the offence defined in this Section.

OF EXTORTION.

383—389. Intentionally putting any person in fear of injury and thereby inducing him to part with property is "extortion." Illustrations. And (384) committing extortion is punishable with imprisonment of either kind, or fine or both; and (385) in order to committing it, putting any person in fear of injury, &c.; or (386) committing it by putting any person in fear of death or grievous hurt; or (387) in order to committing it, putting or attempting to put any person in fear of death or grievous hurt; or (388) committing it by putting any person in fear of an accusation of an offence punishable with death, &c.; or (389) in order to the committing of it, putting or attempting to put any person in fear of such accusation, punishments varied with each specified variety of the offence.

Extortion.

383. Whoever intentionally puts any person in fear of any injury to that person, or to any other, and thereby dishonestly induces the person so put in fear to deliver to any person any property or valuable security, or any thing signed or sealed, which may be converted into a valuable security, commits "extortion."

Illustrations.

(*a*) A threatens to publish a defamatory libel concerning Z, unless Z gives, him money. He thus induces Z to give him money. A has committed extortion.

(*b*) A threatens Z that he will keep Z's child in wrongful confinement, unless Z will sign and deliver to A a promissory note, binding Z to pay certain monies to A. Z signs and delivers the note. A has committed extortion.

(*c*) A threatens to send club-men to plough up Z's field, unless Z will sign and deliver to B a bond binding Z under a penalty to deliver certain produce to B, and thereby induces Z to sign and deliver the bond. A has committed extortion.

(*d*) A, by putting Z in fear of grievous hurt, dishonestly induces Z to sign or affix his seal to a blank paper and deliver it to A. Z signs and delivers the paper to A. Here, as the paper so signed may be converted into a valuable security, A has committed extortion.

Punishment for extortion.

384. Whoever commits extortion shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Putting person in fear of injury, in order to commit extortion.

385. Whoever, in order to the committing of extortion, puts any person in fear, or attempts to put any person in fear of any injury, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Extortion by putting a person in fear of death or grievous hurt.

386. Whoever commits extortion by putting any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description, for a term which may extend to ten years, and shall also be liable to fine.

Putting person in fear of death or of grievous hurt, in order to commit extortion.

387. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of death or of grievous hurt to that person or to any other, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Extortion by threat of accusation of an offence, punishable with death, or transportation, &c.

388. Whoever commits extortion by putting any person in fear of an accusation against that person or any other, of having committed, or attempted to commit any offence, punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, or of having attempted to induce any other person to commit such offence, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be one punishable under Section 377, may be punished with transportation for life.

Putting person in fear of accusation of offence, in order to commit extortion.

389. Whoever, in order to the committing of extortion, puts or attempts to put any person in fear of an accusation, against that person or any other, of having committed or attempted to commit an offence, punishable with death, or with transportation for life, or with imprisonment for a term which may extend to ten years, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and if the offence be punishable under Section 377, may be punished with transportation for life.

OF ROBBERY AND DACOITY.

390. In robbery there is either theft or extortion. Theft is robbery if in carrying it out, the offender causes, &c. death or hurt, or wrongful restraint, or fear of any of these, and extortion is robbery if the surrender of the property is obtained through fear of death, hurt or wrongful restraint, &c. Explanation. Illustrations.

391. Five or more persons, including persons present, aiding in joint attempt to commit a robbery, commit by such union of numbers "dacoity."

392—394. Committing robbery, rigorous imprisonment and fine, and if on the highway between sun-rise and sun-set, an increased term; and (393) attempting to commit robbery, rigorous imprisonment and fine; and (394) voluntarily causing hurt in the robbery or attempt, transportation for life or rigorous imprisonment and fine.

395—398. Committing dacoity transportation for life or rigorous imprisonment and fine; and (396) if murder is committed by any one of the dacoits, death or transportation for life, or rigorous imprisonment and fine and (397) if either in robbery or dacoity the offender uses a deadly weapon, or causes grievous hurt, or attempts either; or (398) is armed with any deadly weapon, punishments varied with each specified variety of the offence.

399. Making preparation for committing dacoity, rigorous imprisonment and fine.

400—401. Belonging to a dacoity-gang, transportation for life, or rigorous imprisonment and fine: and (401) belonging to any wandering gang associated for theft or robbery, rigorous imprisonment and fine.

402. Being one of 5 or more assembled for purpose of committing dacoity, rigorous imprisonment and fine.

Robbery.

390. In all robbery there is either theft or extortion.

When theft is robbery.

Theft is "robbery," if, in order to the committing of the theft, or in committing the theft, or in carrying away or attempting to carry away property obtained by the theft, the offender, for that end, voluntarily causes or attempts to cause to any person death or hurt, or wrongful restraint, or fear of instant death, or of instant hurt, or of instant wrongful restraint.

When extortion is robbery.

Extortion is "robbery" if the offender, at the time of committing the extortion, is in the presence of the person put in fear, and commits the extortion by putting that person in fear of instant death, of instant hurt, or of instant wrongful restraint to that person, or to some other person, and by so putting in fear, induces the person so put in fear then and there to deliver up the thing extorted.

Explanation.—The offender is said to be present if he is sufficiently near to put the other person in fear of instant death, of instant hurt, or of instant wrongful restraint.

Illustrations.

(*a*) A holds Z down, and fraudulently takes Z's money and jewels from Z's clothes, without Z's consent. Here A has committed theft, and, in order to the committing of that theft, has voluntarily caused wrongful restraint to Z. A has therefore committed robbery.

(*b*) A meets Z on the high road, shows a pistol, and demands Z's purse. Z, in consequence, surrenders his purse. Here A has extorted the purse from Z by putting him in fear of instant hurt, being at the time of committing the extortion in his presence. A has therefore committed robbery.

(*c*) A meets Z and Z's child on the high road. A takes the child, and threatens to fling it down a precipice, unless Z delivers his purse. Z, in consequence, delivers his purse. Here A has extorted the purse from Z by causing Z to be in fear of instant hurt to the child who is there present. A has therefore committed robbery on Z.

(*d*) A obtains property from Z by saying—"Your child is in the hands of my gang, and will be put to death unless you send us ten thousand Rupees." This is extortion, and punishable as such; but it is not robbery, unless Z is put in fear of the instant death of his child.

Dacoity.

391. When five or more persons conjointly commit or attempt to commit a robbery, or where the whole number of persons conjointly committing or attempting to commit a robbery, and persons present and aiding such commission or attempt, amount to five or more, every person so committing, attempting, or aiding, is said to commit "dacoity."

Punishment for robbery.

392. Whoever commits robbery, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine; and if the robbery be committed on the highway between sunset and sunrise, the imprisonment may be extended to fourteen years.

Attempt to commit robbery.

393. Whoever attempts to commit robbery, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Voluntarily causing hurt in committing robbery.

394. If any person, in committing or in attempting to commit robbery, voluntarily causes hurt, such person, and any other person jointly concerned in committing or attempting to commit such

robbery, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for dacoity.

395. Whoever commits dacoity shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Dacoity with murder.

396. If any one of five or more persons, who are conjointly committing dacoity, commits murder in so committing dacoity, every one of those persons shall be punished with death, or transportation for life, or rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Robbery or dacoity, with attempt to cause death or grievous hurt.

397. If, at the time of committing robbery or dacoity, the offender uses any deadly weapon, or causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, the imprisonment with which such offender shall be punished shall not be less than seven years.

Attempt to commit robbery or dacoity when armed with deadly weapon.

398. If, at the time of attempting to commit robbery or dacoity, the offender is armed with any deadly weapon, the imprisonment with which such offender shall be punished shall not be less than seven years.

Making preparation to commit dacoity.

399. Whoever makes any preparation for committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to a gang of dacoits.

400. Whoever, at any time after the passing of this Act, shall belong to a gang of persons associated for the purpose of habitually committing dacoity, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Punishment for belonging to a wandering gang of thieves.

401. Whoever, at any time after the passing of this Act, shall belong to any wandering or other gang of persons associated for the purpose of habitually committing theft or robbery, and not

being a gang of thugs or dacoits, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

Assembling for purpose of committing dacoity.

402. Whoever, at any time after the passing of this Act, shall be one of five or more persons assembled for the purpose of committing dacoity, shall be punished with rigorous imprisonment for a term which may extend to seven years, and shall also be liable to fine.

OF CRIMINAL MISAPPROPRIATION OF PROPERTY.

403—404. Dishonest misappropriation, &c., of movable property, imprisonment, or fine, or both. Illustration. Explanations. Of case of finding. Illustrations; and (404) if the misappropriation be of a deceased person, property not taken possession of since his death, an increase of punishment, and further increase if the offender was the deceased's servant or clerk. Illustration.

Dishonest misappropriation of property.

403. Whoever dishonestly misappropriates or converts to his own use any movable property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Illustrations.

(*a*) A takes property belonging to Z out of Z's possession, in good faith, believing, at the time when he takes it, that the property belongs to himself. A is not guilty of theft; but if A, after discovering his mistake, dishonestly appropriates the property to his own use, he is guilty of an offence under this Section.

(*b*) A, being on friendly terms with Z, goes into Z's library in Z's absence, and takes away a book without Z's express consent. Here, if A was under the impression that he had Z's implied consent to take the book for the purpose of reading it, A has not committed theft. But if A afterwards sells the book for his own benefit, he is guilty of an offence under this Section.

(*c*) A and B being joint owners of a horse, A takes the horse out of B's possession, intending to use it. Here, as A has a right to use the horse, he does not dishonestly misappropriate it. But if A sells the horse and appropriates the whole proceeds to his own use, he is guilty of an offence under this Section.

Explanation 1.—A dishonest misappropriation for a time only is a misappropriation within the meaning of this Section.

Illustration.

A finds a Government Promissory Note belonging to Z, bearing a blank endorsement. A, knowing that the note belongs to Z, pledges it with a banker as a security for a loan, intending at a future time to restore it to Z. A has committed an offence under this Section.

Explanation 2.—A person who finds property not in the possession of any other person, and takes such property for the purpose of protecting it for, or of restoring it to, the owner, does not take or misappropriate it dishonestly, and is not guilty of an offence; but he is guilty of the offence above defined, if he appropriates it to his own use, when he knows or has the means of discovering the owner, or before he has used reasonable means to discover and give notice to the owner, and has kept the property a reasonable time to enable the owner to claim it.

What are reasonable means, or what is a reasonable time in such a case, is a question of fact.

It is not necessary that the finder should know who is the owner of the property, or that any particular person is the owner of it: it is sufficient if at the time of appropriating it, he does not believe it to be his own property, or in good faith believe that the real owner cannot be found.

Illustrations.

(*a*) A finds a Rupee on the high road, not knowing to whom the Rupee belongs. A picks up the Rupee. Here A has not committed the offence in this Section.

(*b*) A finds a letter on the high road, containing a bank note. From the direction and contents of the letter he learns to whom the note belongs. He appropriates the note. He is guilty of an offence under this Section.

(*c*) A finds a cheque payable to bearer. He can form no conjecture as to the person who has lost the cheque. But the name of the person who has drawn the cheque, appears. A knows that this person can direct him to the person in whose favor the cheque was drawn. A appropriates the cheque without attempting to discover the owner. He is guilty of an offence under this Section.

(*d*) A sees Z drop his purse with money in it. A picks up the purse with the intention of restoring it to Z, but afterwards appropriates it to his own use. A has committed an offence under this Section.

(*e*) A finds a purse with money, not knowing to whom it belongs; he afterwards discovers that it belongs to Z, and appropriates it to his own use. A is guilty of an offence under this Section.

(*f*) A finds a valuable ring, not knowing to whom it belongs. A sells it

immediately without attempting to discover the owner. A is guilty of an offence under this Section.

Dishonest misappropriation of property possessed by a deceased person at the time of his death.

404. Whoever dishonestly misappropriates or converts to his own use property, knowing that such property was in the possession of a deceased person at the time of that person's decease, and has not since been in the possession of any person legally entitled to such possession, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine, and if the offender at the time of such person's decease was employed by him as a clerk or servant, the imprisonment may extend to seven years.

Illustration.

Z dies in possession of furniture and money. His servant A, before the money comes into the possession of any person entitled to such possession, dishonestly misappropriates it. A has committed the offence defined in this Section.

OF CRIMINAL BREACH OF TRUST.

405. Any one entrusted with property or dominion over it and dishonestly misappropriating or converting it to his own use, or using, &c., it in violation of any law, or of any contract, or suffering any other person so to do, &c., commits "criminal breach of trust." Illustration.

406—409. Committing criminal breach of trust, imprisonment of either kind, or fine or both; and (407) if committed by carrier, wharfinger, warehouse keeper; or (408) by clerk, servant, &c.; or (409) by public servant, banker, merchant, factor, broker, attorney or agent, in regard to property to which their special capacity or trust applies, punishment specified in these different Sections.

Criminal breach of trust.

405. Whoever, being in any manner entrusted with property, or with any dominion over property, dishonestly misappropriates or converts to his own use that property, or dishonestly uses or disposes of that property in violation of any direction of law prescribing the mode in which such trust is to be discharged, or of any legal contract, express or implied, which he has made touching the discharge of such trust, or, wilfully suffers any other person so to do, commits "criminal breach of trust."

Illustrations.

(*a*) A, being executor to the will of a deceased person, dishonestly disobeys

the law which directs him to divide the effects according to the will, and appropriates them to his own use. A has committed criminal breach of trust.

(b) A is a wharehouse-keeper. Z, going on a journey, entrusts his furniture to A under a contract, that it shall be returned on payment of a stipulated sum for wharehouse room. A dishonestly sells the goods. A has committed criminal breach of trust.

(c) A, residing in Calcutta, is agent for Z, residing at Delhi. There is an express or implied contract between A and Z that all sums remitted by Z to A shall be invested by A according to Z's direction. Z remits a lakh of Rupees to A, with directions to A to invest the same in Company's paper. A dishonestly disobeys the directions, and employs the money in his own business. A has committed criminal breach of trust.

(d) But if A, in the last illustration, not dishonestly but in good faith, believing that it will be more for Z's advantage to hold shares in the Bank of Bengal, disobeys Z's directions, and buys shares in the Bank of Bengal for Z, instead of buying Company's paper here, though Z should suffer loss, and should be entitled to bring a Civil action against A on account of that loss, yet A, not having acted dishonestly, has not committed criminal breach of trust.

(e) A, a revenue officer, is entrusted with public money, and is either directed by law, or bound by a contract, express or implied, with the Government, to pay into a certain treasury all the public money which he holds. A dishonestly appropriates the money. A has committed criminal breach of trust.

(f) A, a carrier, is entrusted by Z with property to be carried by land or by water. A dishonestly misappropriates the property. A has committed criminal breach of trust.

Punishment for criminal breach of trust.

406. Whoever commits criminal breach of trust, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Criminal breach of trust by carrier, &c.

407. Whoever, being entrusted with property as a carrier, wharfinger, or warehouse-keeper, commits criminal breach of trust in respect of such property, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by a clerk or servant.

408. Whoever, being a clerk or servant, or employed as a clerk or servant, and being in any manner entrusted in such capacity with property or with any dominion over property, commits criminal breach of trust in respect of that property, shall be punished with imprison-

ment of either description for a term which may extend to seven years, and shall also be liable to fine.

Criminal breach of trust by public servant, or by banker, merchant, or agent.

409. Whoever, being in any manner entrusted with property, or with any dominion over property, in his capacity of a public servant or in the way of his business as a banker, merchant, factor, broker, attorney, or agent, commits criminal breach of trust in respect of that property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

OF RECEIVING STOLEN PROPERTY.

410. Property, the possession of which has been transferred by theft, extortion or robbery, or what has been criminally or by criminal breach of trust, misappropriated, is stolen property.

411—413. Dishonestly receiving or retaining stolen property, imprisonment of either kind, or fine or both; and (412) if the receiver knows, &c., the robbery was by dacoity, a higher punishment; and (413) an habitual receiver or dealer in stolen property is to be punished as specified.

414. Voluntarily assisting in concealing, disposing of, or making away with stolen property, imprisonment of either kind, or fine or both.

Stolen property.

410. Property, the possession whereof has been transferred by theft, or by extortion, or by robbery, and property which has been criminally misappropriated, or in respect of which the offence of criminal breach of trust has been committed, is designated as "stolen property." But if such property subsequently comes into the possession of a person legally entitled to the possession thereof, it then ceases to be stolen property.

Dishonestly receiving stolen property.

411. Whoever dishonestly receives or retains any stolen property, knowing or having reason to believe the same to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Dishonestly receiving property stolen in the commission of a dacoity.

412. Whoever dishonestly receives or retains any stolen property, the possession whereof he knows or has reason to believe to have been transferred by the commission of dacoity, or dishonestly receives from a person, whom he knows or has reason

to believe to belong or to have belonged to a gang of dacoits, property which he knows or has reason to believe to have been stolen, shall be punished with transportation for life, or with rigorous imprisonment for a term which may extend to ten years, and shall also be liable to fine.

Habitually dealing in stolen property.

413. Whoever habitually receives or deals in property, which he knows or has reason to believe to be stolen property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Assisting in concealment of stolen property.

414. Whoever voluntarily assists in concealing or disposing of or making away with property, which he knows or has reason to believe to be stolen property, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

OF CHEATING.

415. By deceit, fraudulently or dishonestly inducing any one to deliver property, &c., or to omit anything, &c., to the damage or harm of body, mind, reputation, or property, is to "cheat". Explanation. Illustrations.

416. Cheating by personation is falsely pretending to be some other person, or falsely substituting one person for another. Explanation. Illustrations.

417—420. Cheating, imprisonment of either kind, or fine, or both; and (418) cheating by a person bound contrariwise to protect, knowing the probable effect, an increased amount of same punishment; and (419) the same also for cheating by false personation; and (420) cheating and thereby dishonestly inducing the delivery of property, &c., or of any security, or making, altering, &c., any security, imprisonment for an increased term and fine.

Cheating.

415. Whoever, by deceiving any person, fraudulently or dishonestly induces the person so deceived to deliver any property to any person, or to consent that any person shall retain any property, or intentionally induces the person so deceived to do or omit to do anything which he would not do, or omit, if he were not so deceived, and which act or omission causes or is likely to cause damage or harm to that person in body, mind, reputation, or property, is said to "cheat."

Explanation.—A dishonest concealment of facts is a deception within the meaning of this Section.

Illustrations.

(*a*) A, by falsely pretending to be in the Civil Service intentionally deceives Z, and thus dishonestly induces Z to let him have on credit goods for which he does not mean to pay. A cheats.

(*b*) A, by putting a counterfeit mark on an article, intentionally deceives Z into a belief that this article was made by a certain celebrated manufacturer, and thus dishonestly induces Z to buy and pay for the article. A cheats.

(*c*) A, by exhibiting to Z a false sample of an article, intentionally deceives Z into believing that the article corresponds with the sample, and thereby dishonestly induces Z to buy and pay for the article. A cheats.

(*d*) A, by tendering in payment for an article a bill on a house with which A keeps no money, and by which A expects that the bill will be dishonored, intentionally deceives Z, and thereby dishonestly induces Z to deliver the article, intending not to pay for it. A cheats.

(*e*) A, by pledging as diamonds articles which he knows are not diamonds, intentionally deceives Z, and thereby dishonestly induces Z to lend money. A cheats.

(*f*) A intentionally deceives Z into a belief that A means to repay any money that Z may lend to him, and thereby dishonestly induces Z to lend him money, A not intending to repay it. A cheats.

(*g*) A intentionally deceives Z into a belief that A means to deliver to Z a certain quantity of indigo plant which he does not intend to deliver, and thereby dishonestly induces Z to advance money upon the faith of such delivery. A cheats; but if A, at the time of obtaining the money, intends to deliver the indigo plant, and afterwards breaks his contract and does not deliver it, he does not cheat, but is liable only to a civil action for breach of contract.

(*h*) A intentionally deceives Z into a belief that A has performed A's part of a contract made with Z, which he has not performed, and thereby dishonestly induces Z to pay money. A cheats.

(*i*) A sells and conveys an estate to B. A knowing that in consequence of such sale he has no right to the property, sells or mortgages the same to Z, without disclosing the fact of the previous sale and conveyance to B, and receives the purchase or mortgage money from Z. A cheats.

Cheating by personation.

416. A person is said to "cheat by personation," if he cheats by pretending to be some other person, or by knowingly substituting one person for another, or representing that he or any other person is a person other than he or such other person really is.

Explanation.—The offence is committed whether the individual personated is a real or imaginary person.

Illustrations.

(*a*) A cheats by pretending to be a certain rich banker of the same name. A cheats by personation.

(*b*) A cheats by pretending to be B, a person who is deceased. A cheats by personation.

Punishment for cheating.

417. Whoever cheats shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Cheating with knowledge that wrongful loss may be thereby caused to a person whose interest the offender is bound to protect.

418. Whoever cheats with the knowledge that he is likely thereby to cause wrongful loss to a person whose interest in the transaction to which the cheating relates, he was bound, either by law, or by a legal contract, to protect, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for cheating by personation.

419. Whoever cheats by personation shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Cheating and dishonestly inducing a delivery of property.

420. Whoever cheats and thereby dishonestly induces the person deceived to deliver any property to any person, or to make, alter, or destroy the whole or any part of a valuable security, or any thing which is signed or sealed, and which is capable of being converted into a valuable security, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

OF FRAUDULENT DEEDS AND DISPOSITIONS OF PROPERTY.

421—424. Dishonestly or fraudulently removing and concealing, &c., or transferring without adequate consideration any property, intending thereby to prevent the distribution of it among creditors, &c., imprisonment of either kind or fine, or both; and (422) dishonestly, &c., preventing any debt or demand becoming available for creditors, the same punishment; and (423) the same, for dishonestly, &c., signing, &c., any deed, &c., for transferring or charging any property, &c., falsely stating the consideration; and (424) dishonestly, &c., concealing, &c., any property of one's own or other person, or assisting in its being done, the same punishment, but of less amount.

421. Whoever dishonestly or fraudulently removes, conceals, or delivers to any person, or transfers or causes to be transferred to any person, without adequate consideration, any property, intending thereby to prevent, or knowing it to be likely that he will thereby prevent the distribution of that property, according to law, among his creditors or the creditors of any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property to prevent distribution among creditors.

422. Whoever dishonestly or fraudulently prevents any debt or demand due to himself or to any other person from being made available according to law for payment of his debts or the debts of such other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonestly or fraudulently preventing from being made available for his creditors a debt or demand due to the offender.

423. Whoever dishonestly or fraudulently signs, executes, or becomes a party to any deed or instrument which purports to transfer or subject to any charge any property, or any interest therein, and which contains any false statement relating to the consideration for such transfer or charge, or relating to the person or persons for whose use or benefit it is really intended to operate, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent execution of deed of transfer containing a false statement of consideration.

424. Whoever dishonestly or fraudulently conceals or removes any property of himself or any other person, or dishonestly or fraudulently assists in the concealment or removal thereof, or dishonestly releases any demand or claim to which he is entitled, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Dishonest or fraudulent removal or concealment of property.

OF MISCHIEF.

425. Intending, &c., to cause wrongful loss, &c., to the public or any person, and causing the destruction of property, &c., or a diminution of its value, &c., is committing "mischief." Explanation 1 and 2. Illustrations.

426—429. Committing mischief, imprisonment of either kind, or fine, or both; and (427) an increased amount of same punishment if the damage amounts to 50 Rs. or more; and (428) committing mischief by killing, &c., maiming, &c., any animal of the value of 10 Rs. and more, the same increased amount of same punishment; and (429) a still higher amount of same punishment, if the killing, &c., is of any elephant, camel, horse, mule, buffalo, bull, cow, or ox, of whatever value, or of any other animal of the value of 50 Rs. or more.

430. Committing mischief by any act likely to diminish supply of water for agricultural purposes, or for food or drink of man or animals, the property of man, or for cleanliness or carrying on any manufacture; imprisonment of either kind, or fine, or both.

431. Committing mischief by any act rendering any public road, bridge, &c., natural or artificial, less safe, &c., the same amount and kind of punishment.

432. Committing mischief by act causing, &c., an inundation or obstruction to public drainage, attended with injury, or damage, &c., the same kind and amount of punishment.

433—434. Committing mischief by destroying, &c., any light-house, &c., used as sea-mark, or any sea-mark, &c., placed as a guide to navigators, or by rendering same less useful, same kind and amount of punishment; and (434) same offence in regard to land-marks, same kind of punishment of less amount.

435—436. Committing mischief by fire or explosive substance, intending to cause or likely, damage, 100 Rs., imprisonment of either kind and fine; and (436) if the intent is to cause the destruction of any building used ordinarily as place of worship or human dwelling, or for the custody of property, transportation for life, or imprisonment of either kind and fine.

437—438. Committing mischief to any decked vessel or vessel of 20 tons or more, intending to destroy or render it unsafe; or (438) doing the same by fire or any explosive substance, transportation for life, or imprisonment of either kind and fine.

439. Intentionally running any vessel aground, &c., for purpose of theft of property, &c., imprisonment of either kind and fine.

440. Committing mischief, or preparation for causing death, hurt, wrongful restraint, or the fear of them, imprisonment of either kind and fine.

Mischief.

425. Whoever, with intent to cause, or knowing that he is likely to cause, wrongful loss or damage to the public, or to any person, causes the destruction of any property, or any such change in any property, or in the situation thereof as destroys or diminishes its value or utility, or affects it injuriously, commits "mischief."

Explanation 1.—It is not essential to the offence of mischief that the offender should intend to cause loss or damage to the owner of the property injured or destroyed. It is sufficient if he

intends to cause, or knows that he is likely to cause wrongful loss or damage to any person by injuring any property, whether it belongs to that person or not.

Explanation 2.—Mischief may be committed by an act affecting property belonging to the person who commits the act, or to that person and others jointly.

Illustrations.

(*a*) A voluntarily burns a valuable security belonging to Z, intending to cause wrongful loss to Z. A has committed mischief.

(*b*) A introduces water into an ice house belonging to Z, and thus causes the ice to melt, intending wrongful loss to Z. A has committed mischief.

(*c*) A voluntarily throws into a river a ring belonging to Z, with the intention of thereby causing wrongful loss to Z. A has committed mischief.

(*d*) A, knowing that his effects are about to be taken in execution in order to satisfy a debt due from him to Z, destroys those effects, with the intention of thereby preventing Z from obtaining satisfaction of the debt, and of thus causing damage to Z. A has committed mischief.

(*e*) A, having insured a ship, voluntarily causes the same to be cast away with the intention of causing damage to the underwriters. A has committed mischief.

(*f*) A causes a ship to be cast away, intending thereby to cause damage to Z, who has lent money on bottomry on the ship. A has committed mischief.

(*g*) A, having joint property with Z in a horse, shoots the horse, intending thereby to cause wrongful loss to Z. A has committed mischief.

(*h*) A causes cattle to enter upon a field belonging to Z, intending to cause and knowing that he is likely to cause damage to Z's crop. A has committed mischief.

Punishment for committing mischief.

426. Whoever commits mischief shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.

Committing mischief and thereby causing damage to the amount of 50 Rupees.

427. Whoever commits mischief and thereby causes loss or damage to the amount of fifty Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming any animal of the value of 10 Rupees.

428. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any animal or animals of the value of ten Rupees or upwards, shall be punished with imprisonment of

either description for a term which may extend to two years, or with fine, or with both.

Mischief by killing or maiming cattle, &c., or any animal of the value of 50 Rupees.

429. Whoever commits mischief by killing, poisoning, maiming, or rendering useless, any elephant, camel, horse, mule, buffalo, bull, cow, or ox, whatever may be the value thereof, or any other animal of the value of fifty Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to works of irrigation or by wrongfully diverting water.

430. Whoever commits mischief by doing any act which causes, or which he knows to be likely to cause a diminution of the supply of water for agricultural purposes, or for food or drink for human beings or for animals which are property, or for cleanliness, or for carrying on any manufacture, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by injury to public road, bridge, or river.

431. Whoever commits mischief by doing any act which renders or which he knows to be likely to render any public road, bridge, navigable river, or navigable channel, natural or artificial, impassable or less safe for travelling or conveying property, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by causing inundation or obstruction to public drainage attended with damage.

432. Whoever commits mischief by doing any act which causes or which he knows to be likely to cause an inundation or an obstruction to any public drainage attended with injury or damage, shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both.

Mischief by destroying or moving or rendering less useful a light-house or sea-mark, or by exhibiting false lights.

433. Whoever commits mischief by destroying or moving any light-house or other light used as a sea-mark, or any sea-mark or buoy or other thing placed as a guide for navigators, or by any act which renders any such light-house, sea-mark, buoy, or other such thing as aforesaid lessuseful as a guide for navigators, shall be punished with imprisonment of

either description for a term which may extend to seven years, or with fine, or with both.

Mischief by destroying or moving, &c., a land-mark fixed by public authority.

434. Whoever commits mischief by destroying or moving any land-mark fixed by the authority of a public servant, or by any act which renders such land-mark less useful as such, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Mischief by fire or explosive substance with intent to cause damage to amount of 100 Rupees.

435. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause damage to any property to the amount of one hundred Rupees or upwards, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Mischief by fire or explosive substance with intent to destroy a house, &c.

436. Whoever commits mischief by fire or any explosive substance, intending to cause, or knowing it to be likely that he will thereby cause, the destruction of any building which is ordinarily used as a place of worship, or as a human dwelling or as a place for the custody of property, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief with intent to destroy or make unsafe a decked vessel or a vessel of 20 tons burden.

437. Whoever commits mischief to any decked vessel or any vessel of a burden of twenty tons or upwards, intending to destroy, or render unsafe, or knowing it to be likely that he will thereby destroy or render unsafe that vessel, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for the mischief described in the last Section when committed by fire or any explosive substance.

438. Whoever commits or attempts to commit by fire or any explosive substance, such mischief as is described in the last preceding Section, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for intentionally running vessel aground or ashore with intent to commit theft, &c.

439. Whoever intentionally runs any vessel aground or ashore intending to commit theft of any property contained therein, or to dishonestly misappropriate any such property, or with intent that such theft or misappropriation of property may be committed, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Mischief committed after preparation made for causing death or hurt.

440. Whoever commits mischief, having made preparation for causing to any person death, or hurt, or wrongful restraint, or fear of death, or of hurt, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

OF CRIMINAL TRESPASS.

441—446. Entering into or upon property in possession of another, with intent to commit an offence, or to intimidate, &c. any person in possession, or unlawfully remaining there with same intent, is criminal trespass; and (442) is "house-trespass" if the entry, &c., be in any building, &c., used as a human dwelling, or as a place of worship, or for custody of property; and (443) is "lurking house-trespass" if precautions were taken for concealment; and (444) "is lurking-house trespass by night" if committed between sunset and sunrise; and (445) it is "house-breaking" if an entrance into the house be effected in any one of six specified ways. Explanation. Illustrations; and (446) house-breaking between sunset and sunrise is "house-breaking by night."

447—452. Criminal trespass, imprisonment of either kind, or fine to 500 Rs. or both; and (448) house-trespass, an increased amount of same punishment; and (449) if committed in order to the commission of any offence, punishable with death, or (450) with transportation for life, or (451) with imprisonment; or (452) for causing hurt, &c., committing an assault, wrongfully restraining any one, &c., punishments modified for each specified variety of house-trespass.

453—455. Lurking house-trespass, or house-breaking, punishable with imprisonment and fine; and (454) if committed in order to commission of any offence punishable with imprisonment, or of theft; or (455) if committed with preparation for causing hurt, or assaulting or restraining any person, &c., punishments modified for each specified variety of offence.

456—460. Lurking house-trespass by night and house-breaking by night, imprisonment of either kind and fine; and (457) same punishment to increased amount, if committed in order to the commission of offence punishable with

imprisonment or theft; and (458) a still higher degree of same punishment if committed with preparation to cause hurt, to assault or restrain any one, &c.; and (459) if to cause death or grievous hurt, transportation for life, or imprisonment of either kind and fine; and (460) the same punishment to all engaged, if there are several if, at the time of committing the offence, any one of them shall attempt to cause death or grievous hurt.

461—462. Dishonestly and with intent to commit mischief, breaking open or unfastening any place for care of property, imprisonment of either kind, or fine, or both; and (462) an increased amount of same punishment, if the breaking open, &c., is by person entrusted.

Criminal trespass.

441. Whoever enters into or upon property in the possession of another with intent to commit an offence or to intimidate, insult, or annoy any person in possession of such property; or having lawfully entered into or upon such property, unlawfully remains there with intent thereby to intimidate, insult, or annoy any such person, or with intent to commit an offence, is said to commit criminal trespass.

House-trespass.

442. Whoever commits criminal trespass by entering into or remaining in any building, tent, or vessel, used as a human dwelling, or any building used as a place for worship, or as a place for the custody of property, is said to commit "house-trespass."

Explanation.—The introduction of any part of the criminal trespasser's body is entering sufficient to constitute house-trespass.

Lurking house-trespass.

443. Whoever commits house-trespass, having taken precautions to conceal such house-trespass from some person who has a right to exclude or eject the trespasser from the building, tent, or vessel which is the subject of the trespass, is said to commit "lurking house-trespass."

Lurking house-trespass by night.

444. Whoever commits lurking house-trespass after sunset and before sunrise, is said to commit "lurking house-trespass by night."

House-breaking.

445. A person is said to commit "house-breaking," who commits house-trespass if he effects his entrance into the house or any part of it in any of the six ways hereinafter described; or if, being in the house or any part of it for the purpose of committing an offence, or having committed an offence therein, he quits the house or any part of it in any of such six ways, that is to say,

First.—If he enters or quits through a passage made by himself or by any abettor of the house-trespass, in order to the committing of the house-trespass.

Secondly.—If he enters or quits through any passage not intended by any person, other than himself or an abettor of the offence, for human entrance; or through any passage to which he has obtained access by scaling or climbing over any wall or building.

Thirdly.—If he enters or quits through any passage which he or any abettor of the house-trespass has opened, in order to the committing of the house-tresspass by any means by which that passage was not intended by the occupier of the house to be opened.

Fourthly.—If he enters or quits by opening any lock in order to the committing of the house-trespass, or in order to the quitting of the house after a house-trespass.

Fifthly.—If he effects his entrance or departure by using criminal force or committing an assault, or by threatening any person with assault.

Sixthly.—If he enters or quits by any passage which he knows to have been fastened against such entrance or departure, and to have been unfastened by himself or by an abettor of the house-trespass.

Explanation.—Any out-house, or building occupied with a house, and between which and such house there is an immediate internal communication, is part of the house within the meaning of this Section.

Illustrations.

(*a*) A commits house-trespass by making a hole through the wall of Z's house, and putting his hand through the aperture. This is house-breaking.

(*b*) A commits house-trespass by creeping into a ship at a port-hole between decks. This is house-breaking.

(*c*) A commits house-trespass by entering Z's house through a window. This is house-breaking.

(*d*) A commits house-trespass by entering Z's house through the door having opened a door which was fastened. This is house-breaking.

(*e*) A commits house-trespass by entering Z's house through the door, having lifted a latch by putting a wire through a hole in the door. This is house-breaking.

(*f*) A finds the key of Z's house door, which Z had lost, and commits house-trespass by entering Z's house, having opened the door with that key This is house-breaking.

(*g*) Z is standing in his door-way. A forces a passage by knocking Z down and commits house-trespass by entering the house. This is house-breaking.

(*h*) Z, the door-keeper of Y, is standing in Y's door-way. A commits house-trespass by entering the house, having deterred Z from opposing him by threatening to beat him. This is house-breaking.

House-breaking by night.

446. Whoever commits house-breaking after sunset and before sunrise, is said to commit "house-breaking by night."

Punishment for criminal trespass.

447. Whoever commits criminal trespass, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to five hundred Rupees, or with both.

Punishment for house trespass.

448. Whoever commits house-trespass shall be punished with imprisonment of either description for a term which may extend to one year, or with fine which may extend to one thousand Rupees, or with both.

House-trespass in order to the commission of an offence punishable with death.

449. Whoever commits house-trespass in order to the committing of any offence punishable with death, shall be punished with transportation for life, or with rigorous imprisonment for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of an offence punishable with transportation for life.

450. Whoever commits house-trespass in order to the committing of any offence punishable with transportation for life, shall be punished with imprisonment of either description for a term not exceeding ten years, and shall also be liable to fine.

House-trespass in order to the commission of and offence punishable with imprisonment.

451. Whoever commits house-trespass in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to seven years.

House-trespass after preparation made for causing hurt to any person.

452. Whoever commits house-trespass, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear

of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking.

453. Whoever commits lurking house-trespass, or house-breaking, shall be punished with imprisonment of either description for a term which may extend to two years, and shall also be liable to fine.

Lurking house-trespass or house-breaking in order to the commission of an offence punishable with imprisonment.

454. Whoever commits lurking house-trespass, or house-breaking, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to ten years.

Lurking house-trespass or house-breaking after preparation made for causing hurt to any person.

455. Whoever commits lurking house-trespass, or house-breaking, haivng made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Punishment for lurking house-trespass or house-breaking by night.

456. Whoever commits lurking house-trespass by night, or house-breaking by night, shall be punished with imprisonmeut of either description for a term which may extend to three years, and shall also be liable to fine.

Lurking house-trespass or house-breaking by night, in order to the commission of an offence punishable with imprisonment.

457. Whoever commits lurking house-trespass by night or house-breaking by night, in order to the committing of any offence punishable with imprisonment, shall be punished with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine; and if the offence intended to be committed is theft, the term of the imprisonment may be extended to fourteen years.

Lurking house-trespass or house-breaking by night, after preparation made for causing hurt to any person.

458. Whoever commits lurking house-trespass by night, or house-breaking by night, having made preparation for causing hurt to any person, or for assaulting any person, or for wrongfully restraining any person, or for putting any person in fear of hurt, or of assault, or of wrongful restraint, shall be punished with imprisonment of either description for a term which may extend to fourteen years, and shall also be liable to fine.

Grievous hurt caused whilst committing lurking house-trespass or house-breaking.

459. Whoever, whilst committing lurking house-trespass or house-breaking causes grievous hurt to any person, or attempts to cause death or grievous hurt to any person, shall be punished with transportation for life, or imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

All persons jointly concerned in house-breaking, &c., to be punishable for death or grievous hurt caused by one of their number.

460. If at the time of the committing of lurking house-trespass by night or house-breaking by night, any person guilty of such offence shall voluntarily cause or attempt to cause death or grievous hurt to any person, every person jointly concerned in committing such lurking house-trespass by night or house-breaking by night, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Dishonestly breaking, open any closed receptacle containing or supposed to contain property.

461. Whoever dishonestly or with intent to commit mischief, breaks open or unfastens any closed receptacle which contains or which he believes to contain property, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for same offence when committed by person entrusted with custody.

462. Whoever, being entrusted with any closed receptacle which contains or which he believes to contain property, without having authority to open the same, dishonestly, or with intent to commit mischief, breaks open or unfastens that receptacle, shall be

punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

CHAPTER XVIII.

OF OFFENCES RELATING TO DOCUMENTS AND TO TRADE OR PROPERTY MARKS.

463—464. Making any false document, &c., with intent to cause damage or injury to the public or any person, or to support any claim or title, or to cause any person to part with property, or to enter into any contract, or to commit fraud, &c., is forgery; and (464) making a false document is (1) dishonestly making, signing, &c., a document, &c., with the intent of its being believed to be made by some other person or (2) altering a document without authority, dishonestly, &c.; or (3) dishonestly, &c., causing any person to sign, &c., who by reason of unsoundness of mind, &c., or by deception, does not know the contents, &c. Explanations 1 and 2, and Illustrations.

465—469. Committing forgery, imprisonment of either kind, or fine, or both; and (466) if the document purports to be a record of a proceeding in a Court of Justice, register of birth, baptism, marriage, or burial, register kept by public servant, official certificate and warrant to defend, &c., imprisonment to an increased amount and fine; and (467) if the forgery be of a valuable security, a will, an authority to adopt a son, authority to make, transfer, &c., receive or deliver, or an acquittance, &c., the same punishment to an increased amount; and (468) if the forgery be committed for the purpose of cheating; or (469) to harm the reputation of any one, &c., the punishment specified in those Sections.

470—471. A forged document is one made wholly or in part by forgery; and (471) fraudulently using, &c., as genuine a forged document, knowing it to be so, the same punishment as forgery.

472—473. Making or counterfeiting any seal, plate, &c., for making an impression, intending it to be used for any forgery punishable under Section 467 transportation for life, or imprisonment of either kind and fine; and (473) the same offence in regard to any forgery, punishable other than under Section 467, imprisonment of either kind and fine.

474. Having any document knowing it to be forged, and intending it to be used as genuine, if of the kind, described in Sections 466 and 467, punishment varied as specified in this Section.

475—476. Counterfeiting upon, &c., any material, any device, &c., used for purpose of authenticating any document described in Section 467, intending thereby to give an appearance of authenticity to the document, trans-

portation for life, or imprisonment of either kind and fine; and (476) if the document is of any other kind than described in Section 467, a diminished punishment.

477. Fradulently or dishonestly, or with intent to cause damage, &c., cancelling, destroying, &c., any will, or authority to adopt a son, or any valuable security, or committing mischief in respect to such, transportation for life, or imprisonment of either kind and fine.

Forgery.

463. Whoever makes any false document or part of a document, with intent to cause damage or injury to the public or to any person, or to support any claim or title, or to cause any person to part with property, or to enter into any express or implied contract, or with intent to commit fraud or that fraud may be committed, commits forgery.

Making a false document.

464. A person is said to make a false document—

First.—Who dishonestly or fraudulently makes, signs, seals, or executes a document, or part of a document, or makes any mark denoting the execution of a document, with the intention of causing it to be believed that such document or part of a document was made, signed, sealed, or executed by, or by the authority of a person by whom or by whose authority he knows that it was not made, signed, sealed, or executed, or at a time at which he knows that it was not made, signed, sealed, or executed; or—

Secondly.—Who, without lawful authority, dishonestly or fraudulently, by cancellation or otherwise, alters a document in any material part thereof, after it has been made or executed either by himself or by any other person, whether such person be living or dead at the time of such alteration; or—

Thirdly.—Who dishonestly or fraudulently causes any person to sign, seal, execute, or alter a document, knowing that such person, by reason of unsoundness of mind or intoxication cannot, or that by reason of deception practised upon him he does not know the contents of the document or the nature of the alteration.

Illustrations.

(*a*) A has a letter of credit upon B for Rupees 10,000, written by Z. A, in order to defraud B, adds a cypher to the 10,000 and makes the sum 1,00,000, intending that it may be believed by B that Z so wrote the letter. A has committed forgery.

(b) A, without Z's authority, affixes Z's seal to a document, purporting to be a conveyance of an estate from Z to A, with the intention of selling the estate to B, and thereby of obtaining from B the purchase money. A has committed forgery.

(c) A picks up a cheque on a banker signed by B, payable to bearer, but without any sum having been inserted in the cheque. A fraudulently fills up the cheque by inserting the sum of ten thousand Rupees. A commits forgery.

(d) A leaves with B, his agent, a cheque on a banker, signed by A, without inserting the sum payable, and authorizes B to fill up the cheque by inserting a sum not exceeding ten thousand Rupees for the purpose of making certain payments. B fraudulently fills up the cheque by inserting the sum of twenty thousand Rupees. B commits forgery.

(e) A draws a Bill of Exchange on himself in the name of B without B's authority, intending to discount it as a genuine bill with a banker, and intending to take up the bill on its maturity. Here, as A draws the bill with intent to deceive the banker by leading him to suppose that he had the security of B, and thereby to discount the bill. A is guilty of forgery.

(f) Z's will contains these words—"I direct that all my remaining property be equally divided between A, B, and C," A dishonestly scratches out B's name, intending, that it may be believed that the whole was left to himself and C. A has committed forgery.

(g) A endorses a Government Promissory Note and makes it payable to Z or his order by writing on the bill the words "Pay to Z or his order," and signing the endorsement. B dishonestly erases the words "pay to Z or his order," and thereby converts the special endorsement into a blank endorsement. B commits forgery.

(h) A sells and conveys an estate to Z. A afterwards, in order to defraud Z of his estate, executes a conveyance of the same estate to B, dated six months earlier than the date of the conveyance to Z, intending it to be believed that he had conveyed the estate to B before he conveyed it to Z. A has committed forgery.

(i) Z dictates his will to A. A intentionally writes down a different legatee from the legatee named by Z, and by representing to Z that he has prepared the will according to his instructions, induces Z to sign the will. A has committed forgery.

(j) A writes a letter and signs it with B's name without B's authority, certifying that A is a man of good character and in distressed circumstances, from unforeseen misfortune, intending by means of such letter to obtain alms from Z and other persons. Here as A made a false document in order to induce Z to part with property. A has committed forgery.

(k) A without B's authority writes a letter and signs it in B's name, certifying to A's character, intending thereby to obtain employment under Z. A

has committed forgery, inasmuch as he intended to deceive Z by the forged certificate, and thereby to induce Z to enter into an express or implied contract for service.

Explanation 1.—A man's signature of his own name may amount to forgery.

Illustrations.

(*a*) A signs his own name to a Bill of Exchange, intending that it may be believed that the bill was drawn by another person of the same name. A has committed forgery.

(*b*) A writes the word "accepted" on a piece of paper and signs with Z's name, in order that B may afterwards write on the paper a Bill of Exchange drawn by B upon Z and negotiate the bill as though it had been accepted by Z. A is guilty of forgery, and if B knowing the fact draws the bill upon the paper pursuant to A's intention. B is also guilty of forgery.

(*c*) A picks up a Bill of Exchange payable to the order of a different person of the same name. A endorses the bill in his own name, intending to cause it to be believed that it was endorsed by the person to whose order it was payable; here A has committed forgery.

(*d*) A purchases an estate sold under execution of a decree against B. B, after the seizure of the estate in collusion with Z executes a lease of the estate to Z at a nomial rent and for a long period, and dates the lease six months prior to the seizure with intent to defraud A, and to cause it to be believed that the lease was granted before the seizure. B, though he executes the lease in his own name, commits forgery by antedating it.

(*e*) A, a trader, in anticipation of insolvency, lodges effects with B for A's benefit and with intent to defraud his creditors, and in order to give a color to the transaction, writes a Promissory Note binding himself to pay to B a sum for value received, and antedates the note, intending that it may be believed to have been made before A was on the point of insolvency. A has committed forgery under the first head of the definition.

Explanation 2.—The making of a false document in the name of a fictitious person, intending it to be believed that the document was made by a real person, or in the name of a deceased person, intending it to be believed that the document was made by the person in his lifetime, may amount to forgery.

Illustration.

A draws a Bill of Exchange upon a fictitious person, and fraudulently accepts the bill in the name of such fictitious person with intent to negotiate it. A commits forgery.

Punishment for forgery

465. Whoever commits forgery shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Forgery of a record of a Court of Justice, or of a public Register of Births, &c

466. Whoever forges a document, purporting to be a record or proceeding of or in a Court of Justice, or a Register of Birth, Baptism, Marriage, or Burial, or a Register kept by a public servant as such, or a certificate or document purporting to be made by a public servant in his official capacity, or an authority to institute or defend a suit, or to take any proceedings therein, or to confess judgment, or a power of attorney, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery of a valuable security or will.

467. Whoever forges a document which purports to be a valuable security, or a will, or an authority to adopt a son, or which purports to give authority to any person to make or transfer any valuable security, or to receive the principal interest, or dividends thereon, or to receive or deliver any money, movable property, or valuable security, or any document purporting to be an acquittance or receipt, acknowledging the payment of money, or an acquittance or receipt for the delivery of any movable property or valuable security, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Forgery for the purpose of cheating.

468. Whoever commits forgery, intending that the document forged shall be used for the purpose of cheating, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Forgery for the purpose of harming the reputation of any person.

469. Whoever commits forgery, intending that the document forged shall harm the reputation of any party, or knowing that it is likely to be used for that purpose, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

"A forged document."

470. A false document made wholly or in part by forgery is designated "a forged document."

471. Whoever fraudulently or dishonestly uses as genuine any document which he knows or has reason to believe to be a forged document, shall be punished in the same manner as if he had forged such document.

Using as genuine a forged document.

472. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under Section 467, or with such intent, has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable under Section 467.

473. Whoever makes or counterfeits any seal, plate, or other instrument for making an impression, intending that the same shall be used for the purpose of committing any forgery which would be punishable under any Section of this Chapter other than Section 467, or with such intent has in his possession any such seal, plate, or other instrument, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Making or possessing a counterfeit seal, plate, &c., with intent to commit a forgery punishable otherwise.

474. Whoever has in possession any document, knowing the same to be forged, and intending that the same shall fraudulently or dishonestly be used as genuine, shall, if the document is one of the description mentioned in Section 466, be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine; and if the document is one of the description mentioned in Section 467, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Having possession of a valuable security or will known to be forged with intent to use it as genuine.

Counterfeiting a device or mark used for authenticating documents described in Section 467 or possessing counterfeit marked material.

475. Whoever counterfeits upon, or in the substance of, any material, any device or mark used for the purpose of authenticating any document described in Section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon or in the substance of which any such device or mark has been counterfeited, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Counterfeiting a device or mark used for authenticating documents other than those described in Section 467, or possessing counterfeit marked material.

476. Whoever counterfeits upon or in the substance of, any material, any device or mark used for the purpose of authenticating any document other than the documents described in Section 467, intending that such device or mark shall be used for the purpose of giving the appearance of authenticity to any document then forged or thereafter to be forged on such material, or who with such intent has in his possession any material upon, or in the substance of, which any such device or mark has been counterfeited, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Fraudulent cancellation, destruction, &c. of a will.

477. Whoever fraudulently or dishonestly, or with intent to cause damage or injury to the public or to any person, cancels, destroys, or defaces, or attempts to cancel, destroy, or deface, or secretes or attempts to secrete any document which is or purports to be a will, or an authority to adopt a son, or any valuable security, or commits mischief in respect to such document, shall be punished with transportation for life, or with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

OF TRADE AND PROPERTY MARKS.

478—484. A mark used to denote the particular manufacturer, time, or place of manufacture, or quality, is a trade mark; and (479) if used to denote

ownership, is a property mark; and (480) making goods, &c., with any mark as the manufacturer's mark which it is not to denote as aforesaid, is using a false mark; and (481) marking movable property, &c., with the ownership mark, which it is not, is using a false property mark; and (482) using any false trade mark or any false property mark, with intent to deceive or injure, is punishable with imprisonment of either description, or fine, or both; and (483) knowingly counterfeiting such trade mark or property mark with intent to injure; and (484) knowingly counterfeiting any property mark with same intent, &c., the same punishment to an increased amount.

485. Making or having any die, plate, or other instrument, for purpose of making counterfeit public or private property or trade mark, with intent to use, or that the same shall be used as a genuine mark of the kind, imprisonment of either kind, or fine, or both.

486. Selling any goods with a counterfeit property or trade mark, &c., upon the same, or upon case, wrapper, &c., in which they are contained, knowing the mark to be forged, &c., with intent to deceive, &c., imprisonment of either kind, or fine, or both.

487—488. Fraudulently making any false mark upon any package, &c., with intent to deceive any public servant or other person in regard to the contents of such package, &c., imprisonment of either kind, or fine, or both; and (488) same punishment for fraudulently making use of any false mark with like intent, knowing such to be false.

489. Removing, destroying, or defacing any property mark, intending to injure any person, imprisonment of either kind, or fine, or both.

Trade-mark.

478. A mark used for denoting that goods have been made or manufactured by a particular person, or at a particular time or place, or that they are of a particular quality, is called a trade-mark.

Property-mark.

479. A mark used for denoting that movable property belongs to a particular person, is called a property-mark.

Using a false trade-mark.

480. Whoever marks any goods, or any case, package or other receptacle containing goods, or uses any case, package or other receptacle with any mark thereon, with the intention of causing it to be believed that the goods so marked, or any goods contained in any such case, package, or receptacle so marked, were made or manufactured by any person by whom they were not made or manufactured, or that

they were made or manufactured at any time or place at which they were not made or manufactured, or that they are of a particular quality of which they are not, is said to use a false trade-mark.

Using a false property-mark.

481. Whoever marks any movable property or goods, or any case, package, or other receptacle containing movable property or goods, or uses any case, package, or other receptacle having any mark thereon, with the intention of causing it to be believed that the property or goods so marked, or any property or goods contained in any case, package, or other receptacle so marked, belong to a person to whom they do not belong, is said to use a false property-mark.

Punishment for using a false trade or property-mark with intent to deceive or injure any person.

482. Whoever uses any false trade-mark or any false property-mark with intent to deceive or injure any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Counterfeiting a trade or property-mark used by another, with intent to cause damage or injury.

483. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any trade or property-mark used by any other person, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Counterfeiting a property-mark used by a public servant, or any mark used by him to denote the manufacture, quality, &c., of any property.

484. Whoever, with intent to cause damage or injury to the public or to any person, knowingly counterfeits any property-mark used by a public servant, or any mark used by a public servant to denote that any property has been manufactured by a particular person, or at a particular time or place, or that the same is of a particular quality or has passed through a particular office, or that it is entitled to any exemption, or uses as genuine any such mark, knowing the same to be counterfeit, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.

Fraudulent making or having possession of any die, plate, or other instrument for counterfeiting any public or private property or trade-mark.

485. Whoever makes or has in his possession any die, plate or other instrument for the purpose of making or counterfeiting any public or private property or trade-mark with intent to use the same for the purpose of counterfeiting such mark, or has in his possession any such property or trade-mark with intent that the same shall be used for the purpose of denoting that any goods or merchandize were made or manufactured by any particular person or firm by whom they were not made, or at a time or place at which they were not made, or that they are of a particular quality of which they are not, or that they belong to a person to whom they do not belong, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Knowingly selling goods marked with a counterfeit property or trade-mark.

486. Whoever sells any goods with a counterfeit property or trade-mark, whether public or private, affixed to or impressed upon the same or upon any case, wrapper, or receptacle in which such goods are packed or contained, knowing that such mark is forged or counterfeit, or that the same has been affixed to, or impressed upon, any goods or merchandize not manufactured or made by the person or at the time or place indicated by such mark, or that they are not of the quality indicated by such mark, with intent to deceive, injure, or damage any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Fraudulently making a false mark upon any package or receptacle containing goods.

487. Whoever fraudulently makes any false mark upon any package or receptacle containing goods, with intent to cause any public servant or any other person to believe that such package or receptacle contains goods which it does not contain, or that it does not contain goods which it does contain, or that the goods contained in such package or receptacle are of a nature or quality different from the real nature or quality thereof, shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Punishment for making use of any such false mark.

488. Whoever fraudulently makes use of any such false mark with the intent last aforesaid, knowing such mark to be false, shall be punished in the manner mentioned in the last preceding Section.

Defacing any property-mark with intent to cause injury.

489. Whoever removes, destroys, or defaces any property-mark, intending or knowing it to be likely that he may thereby cause injury to any person, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

CHAPTER XIX.

OF THE CRIMINAL BREACH OF CONTRACTS OF SERVANTS.

490.—Voluntary breach of contract to render personal service in carrying or conducting person or property, &c., or as servant or guard on a journey to person or property, punishable, except on excuse of illness, &c., with imprisonment of either kind, or fine, or both. Illustration. Explanation. Illustration.

491.—Voluntary breach of contract to attend on, &c., any one who, from youth or infirmity of body or mind, is helpless, &c., imprisonment of either kind, or fine, or both.

492.—Voluntary desertion or refusal of service hired in writing for not more than 3 years, as artificer, workman, or laborer, &c., imprisonment of either kind, or fine, double the expense occasioned, or both, except in case of lawful excuse.

Breach of contract of service during a voyage or journey.

490. Whoever, being bound by a lawful contract to render his personal service in conveying or conducting any person or any property from one place to another place, or to act as servant to any person during a voyage or journey, or to guard any person or property during a voyage or journey, voluntarily omits so to do, except in the case of illness or ill-treatment, shall be punished with imprisonment of either description for a term which may extend to one month, or with fine which may extend to one hundred Rupees, or with both.

Illustrations.

(*a*) A, a palanquin bearer, being bound by legal contract to carry Z from one place to another, runs away in the middle of the stage. A has committed the offence defined in this Section.

(*b*) A, a cooly, being bound by lawful contract to carry Z's baggage from one place to another, throws the baggage away. A has committed the offence defined in this Section.

(*c*) A, a proprietor of bullocks, being bound by legal contract to, convey goods on his bullocks from one place to another, illegally omits to do so. A has committed the offence defined in this Section.

(*d*) A, by unlawful means, compels B, a cooly, to carry his baggage. B in the course of the journey puts down the baggage and runs away. Here, as B was not lawfully bound to carry the baggage, he has not committed any offence.

Explanation.—It is not necessary to this offence that the contract should be made with the person for whom the service is to be performed. It is sufficient if the contract is legally made with any person, either expressly or impliedly, by the person who is to perform the service.

Illustration.

A contracts with a Dâk Company to drive his carriage for a month. B employed the Dâk Company to convey him on a journey, and during the month the Company supplies B with a carriage which is driven by A. A in the course of the journey voluntarily leaves the carriage. Here, although A did not contract with B, A is guilty of an offence under this Section.

Breach of contract to attend on and supply the wants of helpless persons.

491. Whoever, being bound by a lawful contract to attend on or to supply the wants of any person who, by reason of youth, or of unsoundness of mind, or of a disease or bodily weakness, is helpless or incapable of providing for his own safety, or of supplying his own wants, voluntarily omits so to do, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine which may extend to two hundred Rupees, or with both.

Breach of contract to serve at a distant place to which the servant is conveyed at the master's expense.

492. Whoever, being bound by lawful contract in writing to work for another person as an artificer, workman, or laborer, for a period not more than three years, at any place within British India to which by virtue of the contract he has been or is to be conveyed at the expense of such other, voluntarily deserts the service of that other during the continuance of his contract, or without reasonable cause refuses to perform the service

which he has contracted to perform, such service being reasonable and proper service, shall be punished with imprisonment of either description for a term not exceeding one month, or with fine not exceeding double the amount of such expense, or with both; unless the employer has ill-treated him or neglected to perform the contract on his part.

CHAPTER XX.

OF OFFENCES RELATING TO MARRIAGE.

493.—Any man by deceit causing any woman erroneously to believe she is married to him, and thereby obtaining sexual intercourse, &c., imprisonment of either kind and fine.

494—495.—Marrying a second time, living the other party to the first marriage, imprisonment of either kind and fine, except in case of first marriage being void, &c., or of absence of party from the other seven years, &c., provided the once married party inform the other party to the second marriage; and (495) an increased amount of same punishment under Section 493, if the first marriage is concealed at the time of the second.

496.—Dishonestly or fraudulently going through the ceremony of being married, knowing that no valid marriage is effected, imprisonment of either kind and fine.

497. Having sexual intercourse with the wife of another man without his consent, &c., is adultery, and the adulterer punishable with imprisonment of either kind, or fine, or both, but not the woman.

498. Taking and enticing away any woman from her known or believed to be husband, with intent to have illicit intercourse, &c., or to conceal her, &c., with that intent; imprisonment of either kind, or fine, or both.

Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.

493. Every man who by deceit causes any woman who is not lawfully married to him, to believe that she is lawfully married to him and to cohabit or have sexual intercourse with him in that belief, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marrying again during the life-time of husband or wife.

494. Whoever, having a husband or wife living, marries in any case in which such marriage is void by reason of its taking place during the life of such husband or wife, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Exception.—This Section does not extend to any person whose marriage with such husband or wife has been declared void by a Court of competent jurisdiction, nor to any person who contracts a marriage during the life of a former husband or wife, if such husband or wife, at the time of the subsequent marriage, shall have been continually absent from such person for the space of seven years, and shall not have been heard of by such person as being alive within that time, provided the person contracting such subsequent marriage shall, before such marriage takes place, inform the person with whom such marriage is contracted, of the real state of facts so far as the same are within his or her knowledge.

Same offence with concealment of the former marriage from the person with whom subsequent marriage is contracted.

495. Whoever commits the offence defined in the last preceding Section, having concealed from the person with whom the subsequent marriage is contracted, the fact of the former marriage, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

Marriage ceremony gone through with fraudulent intent without lawful marriage.

496. Whoever, dishonestly or with a fraudulent intention, goes through the ceremony of being married, knowing that he is not thereby lawfully married, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.

Adultery.

497. Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.

Enticing or taking away or detaining with a criminal intent a married woman.

498. Whoever takes or entices away any woman who is and whom he knows or has reason to believe to be the wife of any other man, from that man or from any person having the care of her on behalf of that man, with intent that she may have illicit intercourse with any person, or conceals or detains with that intent any

such woman, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

CHAPTER XXI.

OF DEFAMATION.

499. By words, or signs, or visible representations, &c., to publish, &c., intending to harm, &c., the reputation of any one, is to defame that person, and it may be of a deceased person, of a company, and ironical in form, but (Explanation 1, 2, 3 and 4), it must directly or indirectly degrade the character, respect of caste, &c., or credit, or body. Illustrations. And (Exceptions 1 to 10), it is not defamation, (1) if true and for the public good; or, (2) if it relates to conduct of a public servant, or (3) to that of a private person in a public matter, and is given in good faith, &c., nor (4) is it defamation to publish a true report of proceedings of a Court of Justice, &c., nor (5) to express in good faith any opinion respecting any case decided by a Court, nor (6) respecting the merits of any literary work, &c., nor (7) for a superior to censure the conduct of subordinate, &c., nor (8) to prefer in good faith an accusation, &c., nor (9) if it is made in good faith for the protection of an interest, &c., or for the public good; nor (10) if it conveys a caution in good faith, &c.

500—502.—Defamation, punishable with simple imprisonment, or fine, or both; and (501) the same for printing or engraving defamatory matter; and (502) for selling or offering for sale any such printed or engraved matter.

Defamation.

499. Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person,

Explanation 1.—It may amount to defamation to impute anything to a deceased person, if the imputation would harm the reputation of that person if living, and is intended to be hurtful to the feelings of his family or other near relatives.

Explanation 2.—It may amount to defamation to make an imputation concerning a company or an association or collection of persons as such.

Explanation 3.—An imputation in the form of an alternative or expressed ironically, may amount to defamation.

Explanation 4.—No imputation is said to harm a person's reputation, unless that imputation directly or indirectly, in the estimation of others, lowers the moral or intellectual character of that person, or lowers the character of that person in respect of his caste or of his calling, or lowers the credit of that person, or causes it to be believed that the body of that person is in a loathsome state, or in a state generally considered as disgraceful.

Illustrations.

(*a*) A says—"Z is an honest man; he never stole B's watch;" intending to cause it to be believed that Z did steal B's watch. This is defamation, unless it fall within one of the Exceptions.

(*b*) A is asked who stole B's watch. A points to Z, intending to cause it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the Exceptions.

(*c*) A draws a picture of Z running away with B's watch, intending it to be believed that Z stole B's watch. This is defamation, unless it fall within one of the Exceptions.

Imputation of any truth which the public good requires to be made or published.

First Exception.—It is not defamation to impute anything which is true concerning any person, if it be for the public good that the imputation should be made or published. Whether or not it is for the public good is a question of fact.

Public conduct of public servants.

Second Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of a public servant in the discharge of his public functions, or respecting his character, so far as his character appears in that conduct, and no further.

Conduct of any person touching any public question.

Third Exception.—It is not defamation to express in good faith any opinion whatever respecting the conduct of any person touching any public question, and respecting his character, so far as his character appears in that conduct, and no further.

Illustration.

It is not defamation in A to express in good faith any opinion whatever respecting Z's conduct in petitioning Government on a public question, in signing a requisition for a meeting on a public question, in presiding or attending at such a meeting, in forming or joining any society which invites the public support, in voting or canvassing for a particular candidate for any situation in the efficient discharge of the duties of which the public is interested.

Fourth Exception.—It is not defamation to publish a substantially true report of the proceedings of a Court of Justice, or of the result of any such proceedings.

Publication of reports of Proceedings of Courts of Justice.

Explanation.—A Justice of the Peace or other Officer holding an enquiry in open Court preliminary to a trial in a Court of Justice, is a Court within the meaning of the above Section.

Fifth Exception.—It is not defamation to express in good faith any opinion whatever respecting the merits of any case, Civil or Criminal, which has been decided by a Court of Justice, or respecting the conduct of any person as a party, witness, or agent, in any such case, or respecting the character of such person, as far as his character appears in that conduct, and no further.

Merits of a case decided in a Court of Justice; or conduct of witnesses and others concerned therein.

Illustrations.

(*a*) A says—"I think Z's evidence on that trial is so contradictory that he must be stupid or dishonest." A is within this Exception if he says this in good faith; inasmuch as the opinion which he expresses respects Z's character as it appears in Z's conduct as a witness, and no further.

(*b*) But if A says—"I do not believe what Z asserted at that trial, because I know him to be a man without veracity;"—A is not within this Exception, inasmuch as the opinion which he expresses of Z's character, is an opinion not founded on Z's conduct as a witness.

Sixth Exception.—It is not defamation to express in good faith any opinion respecting the merits of any performance which its author has submitted to the judgment of the public, or respecting the character of the author so far as his character appears in such performance, and no further.

Merits of a public performance.

Explanation.—A performance may be submitted to the judgment of the public expressly or by acts on the part of the author which imply such submission to the judgment of the public.

Illustrations.

(*a*) A person who publishes a book, submits that book to the judgment of the public.

(*b*) A person who makes a speech in public, submits that speech to the judgment of the public.

(c) An actor or singer who appears on a public stage, submits his acting or singing to the judgment of the public.

(d) A says of a book published by Z. "Z's book is foolish, Z must be a weak man. Z's book is indecent, Z must be a man of impure mind." A is within this Exception, he says this in good faith, inasmuch as the opinion which he expresses of Z respects Z's character only so far as it appears in Z's book, and no further.

(e) But if A says—"I am not surprised that Z's book is foolish and indecent, for he is a weak man and a libertine." A is not within this Exception-inasmuch as the opinion which he expresses of Z's character, is an opinion not founded on Z's book.

Censure passed in good faith by a person having lawful authority over another.

Seventh Exception.—It is not defamation in a person having over another any authority, either conferred by law, or arising out of a lawful contract made with that other, to pass in good faith any censure on the conduct of that other in matters to which such lawful authority relates.

Illustration.

A Judge censuring in good faith the conduct of a witness or of an officer of the Court; a head of a department censuring in good faith those who are under his orders; a parent censuring in good faith a child in the presence of other children; a schoolmaster, whose authority is derived from a parent censuring in good faith a pupil in the presence of other pupils; a master censuring a servant in good faith for remissness in service; a banker censuring in good faith the cashier of his bank for the conduct of such cashier as such cashier—are within this Exception.

Accusation preferred in good faith to a duly authorized person.

Eight Exception.—It is not defamation to prefer in good faith an accusation against any person to any of those who have lawful authority over that person, with respect to the subject matter of accusation.

Illustration.

If A in good faith accuses Z before a Magistrate; if A in good faith complains of the conduct of Z, a servant, to Z's master; if A in good faith complains of the conduct of Z, a child, to Z's father, A is within this Exception.

Imputation made in good faith by a person for the protection of his interests.

Ninth Exception.—It is not defamation to make an imputation on the character of another, provided that the imputation be made in good faith for the protection of the interests of the person making it, or of any other person, or for the public good.

Illustrations.

(*a*) A shopkeeper says to B, who manages his business,—"Sell nothing to Z unless he pays you ready money, for I have no opinion of his honesty." A is within the Exception if he has made this imputation on Z in good faith for the protection of his own interests.

(*b*) A, a Magistrate, in making a report to his superior officer, casts an imputation on the character of Z. Here, if the imputation is made in good faith and for the public good, A is within the Exception.

Caution intended for the good of the person to whom it is conveyed or for the public good.

Tenth Exception.—It is not defamation to convey a caution in good faith, to one person against another, provided that such caution be intended for the good of the person to whom it is conveyed, or of some person in whom that person is interested, or for the public good.

Punishment for defamation.

500. Whoever defames another, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Printing or engraving matter, known to be defamatory.

501. Whoever prints or engraves any matter, knowing or having good reason to believe that such matter is defamatory of any person, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

Sale of printed or engraved substance containing defamatory matter.

502. Whoever sells or offers for sale any printed or engraved substance containing defamatory matter, knowing that it contains such matter, shall be punished with simple imprisonment for a term which may extend to two years, or with fine, or with both.

CHAPTER XXII.

OF CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.

504—505. Intentionally insulting, with a view to provoke a breach of the peace, or (505) circulating, &c., any statement, &c., known to be false &c., with intent to cause mutiny of any soldier or sailor, &c., or fear and alarm to the public, &c., imprisonment of either kind, or fine, or both.

506—507. Threatening injury to a person, his reputation or property, &c., with intent to cause alarm, or cause conduct for avoidance of the threat, &c., is criminal intimidation, and (506) punishable with imprisonment of either kind, or fine, or both; and if the threat be to cause death, &c., or to cause an offence punishable with death, &c., or to impute unchastity

to a woman, &c., a varied punishment, and (107) increased if the criminal intimidation be by anonymous communication, &c.

508. Voluntarily causing, &c., any person to do what he is not legally bound to do, or to omit, &c., by inducing him to believe that the offender can make him an object of divine displeasure, imprisonment of either kind, &c., or fine, or both. Illustrations.

509. With intent to insult the modesty of any woman, uttering word, or making sound or gesture, &c., or intruding on the privacy of any woman, &c., simple imprisonment, or fine, or both.

510. Being intoxicated in any public place, or where it is a trespass to be, and causing annoyance by the offender's mode of conducting himself; imprisonment of either kind, or fine, or both.

Criminal intimidation.

503. Whoever threatens another with any injury to his person, reputation, or property, or to the person or reputation of any one in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do as the means of avoiding the execution of such threat, commits criminal intimidation.

Explanation.—A threat to injure the reputation of any deceased person in whom the person threatened is interested, is within this Section.

Illustration.

A, for the purpose of inducing B to desist from prosecuting a Civil suit, threatens to burn B's house. A is guilty of Criminal intimidation.

Intentional insult with intent to provoke a breach of the peace.

504. Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Circulating false report with intent to cause mutiny or an offence against the State, &c.

505. Whoever circulates or publishes any statement, rumour, or report, which he knows to be false, with intent to cause any officer, soldier, or sailor in the Army or Navy of the Queen to mutiny, or with intent to cause fear or alarm to the public, and thereby to induce any person to commit an offence against the State or against

the public tranquillity, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.

Punishment for criminal intimidation.

506. Whoever commits the offence of criminal intimidation, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both; and if the threat be to cause death or grievous hurt, or to cause the destruction of any property by fire, or to cause an offence punishable with death or transportation, or with imprisonment for a term which may extend to seven years, or to impute unchastity to a woman, shall be punished with imprisonment of either description for a term which may extend to seven years, or with fine, or with both.

If threat be to cause death or grievous hurt, &c.

Criminal intimidation by an anonymous communication.

507. Whoever commits the offence of criminal intimidation by an anonymous communication, or having taken precaution to conceal the name or abode of the person from whom the threat comes, shall be punished with imprisonment of either description for a term which may extend to two years, in addition to the punishment provided for the offence by the last preceding Section.

Act caused by inducing a person to believe that he will be rendered an object of the divine displeasure.

508. Whoever voluntarily causes or attempts to cause any person to do any thing which that person is not legally bound to do, or to omit to do any thing which he is legally entitled to do, by inducing or attempting to induce that person to believe that he or any person in whom he is interested will become or will be rendered by some act of the offender an object of divine displeasure if he does not do the thing which it is the object of the offender to cause him to do, or if he does the thing which it is the object of the offender to cause him to omit, shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

Illustrations.

(*a*) A sits dhurna at Z's door with the intention of causing it to be believed that by so sitting he renders Z an object of divine displeasure. A has committed the offence defined in this Section.

(b) A threatens Z that, unless Z performs a certain act, A will kill one of A's own children, under such circumstances that the killing would be believed to render Z an object of divine displeasure. A has committed the offence defined in this Section.

Word or gesture intended to insult the modesty of a woman.

509. Whoever, intending to insult the modesty of any woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.

Misconduct in public by a drunken person.

510. Whoever, in a state of intoxication, appears in any public place, or in any place which it is a trespass in him to enter, and there conducts himself in such a manner as to cause annoyance to any person, shall be punished with simple imprisonment for a term which may extend to twenty-four hours, or with fine which may extend to ten Rupees, or with both.

CHAPTER XXIII.

OF ATTEMPTS TO COMMIT OFFENCES.

511. Attempting to commit any offence punishable by this Code with transportation, &c., and doing any act towards the commission of it, if not expressly provided for, punishment to the extent of half the punishment provided for the offence itself, or with the same fine, or both. Illustrations.

Punishment for attempting to commit offences punishable with imprisonment.

511. Whoever attempts to commit an offence punishable by this Code with transportation or imprisonment, or to cause such an offence to be committed, and in such attempt does any act towards the commission of the offence, shall, where no express provision is made by this Code for the punishment of such attempt, be punished with transportation or imprisonment of any description provided for the offence for a term of transportation, or imprisonment which may extend to one-half of the longest term provided for that offence, or with such fine as is provided for the offence, or with both.

Illustrations.

(*a*) A makes an attempt to steal some jewels by breaking open a box, and finds after so opening the box that there is no jewel in it. He has done an act towards the commission of theft, and therefore is guilty under this Section.

(*b*) A makes an attempt to pick the pocket of Z by thrusting his hand into Z's pocket. A fails in the attempt in consequence of Z's having nothing in his pocket: A is guilty under this Section.

EMIGRATION TO FRENCH COLONIES.

ACT No. XLVI. OF 1860.

[*Received assent of the G. G. on the 6th October*, 1860.

Recites convention between Gt. B. and France comprising articles set forth in recital: also recites that an Act is necessary to give effect to the convention. Enacts:

1. Repeals Acts 14, 1839 and 34, 1852 s. 3 as respects emigration from Calcutta, Madras and Bombay to the French Colonies, Re-union, Martinique, Gaudeloupe or Guiana or any other French Colony in which British Consular Agent is established or to which the Act is extended by G. G. in C.

2, 3, 4. Authorize appointment by French Government of an Emigration Agent at Calcutta, Madras and Bombay; who (3) may be authorized to recruit and engage emigrants under this Act; (4) subject to the same Regulations and with the same facilities as Emigration Agents for the British Colonies.

5. Protector of Emigrants at Calcutta, Madras and Bombay shall act for the Government in regard to emigrants under this Act.

6, 7. All contracts of emigrants to be made in India shall be to serve a named person or persons to be named by proper authority in the Colony, (7) and shall be in conformity with terms of the convention, and make provision for duration of time and passage back at expiration, days and hours of work, wages, rations, and pay for extra work, and medical treatment.

8. Emigrants to be conveyed only in licensed ships; for license a fee to be paid. Master to give a bond to perform conditions required by him, and ship carrying emigrants without license liable to be forfeited and master to be punished.

9. Master not to receive emigrant on Board without the Agent's Pass countersigned by Protector. Pass to contain specified particulars.

10. Protector of emigrant shall ascertain that emigrant has not been induced to emigrate by fraud, &c and knows how far and where he is to go and that he has been cautioned against unreasonable expectations.

11. Emigrant ship not to have port-clearance till Master has obtained certificate from Protector to effect stated.

12. Prescribes what shall be deemed the probable length of the voyage from the respective ports in India to the respective French Colonies.

13. Emigrant may leave India for the French Colonies E. of the C of Good Hope at all times of the year; (2) for other French Colonies only from 1st August to 15th March, except having steam power, and (3) double blankets to be supplied to emigrants westward of the Cape.

14. Emigrant vessel to carry Surgeon and Interpreter, and Master bound to carry despatches from Protector to Consular Agent.

15, 16, 17, 18. Regulates the space to be provided in ship for the emigrants; and (16) the quantity and kind of provisions and supply of water; and (17) before port-clearance the Protector shall make survey on the provisions and water and certify the same; and (18) the Master shall supply to every emigrant a sufficient quantity for daily maintenance up to 48 hours after arrival of the ship.

19. Protector to deliver to Master 2 copies of ss. 10 to 20 inclusive of this Act and 2 translations to be kept on board for production to passengers.

20, 21. Master to deliver before clearance a list of the emigrants and a duplicate, the latter to be countersigned and returned by Protector and delivered to British Consular Agent at the Colony, and (21) the Master shall be liable to penalty in case of non-compliance with these regulations before clearance.

22, 23. Master after clearance taking any emigrant not named in this list on board to be subject to penalty; (23) also if after clearance he does any act whereby the certificate will be inapplicable to altered state.

24. Gives Custom House Officers the same powers of search and detention in regard to emigrant ships as for the prevention of smuggling.

25. Emigrant vessel from Calcutta to have Custom House Officer on board, who shall keep register of emigrant and make report on points specified subject to penalties.

26. Forgery of any document or using forged document, subject to imprisonment for 7 years.

27. Penalties on Masters under this Act may be enforced by information before any Magistrate or Justice of the Peace at the instance of Protector of Emigrants.

28. Fines and penalties may be recovered by distress and sale of offender's goods, and until levy the offender may be detained in custody, unless he enters into recognizance, and if no distress can be made he may be imprisoned, &c.

29. Every shipment of emigrants to include one fourth of women, to be raised to a third after 3 years, to half after 2 years more, and after that to the same proportion as shipments for the British Colonies.

30. Protector to have access to every part of emigrant ship.

31 Act to extend to emigration of only 6000 to Re-union, and generally as to all the Colonies from date to be determined by G. G. in Council.

An Act to authorize and regulate the Emigration of Native laborers to the French Colonies.

Preamble.

Whereas a Convention has been negotiated between Her Majesty the Queen of Great Britain and Ireland and His Majesty the Emperor of the French, comprising the following Articles:—

ARTICLE I.

The French Government shall be at liberty to recruit and engage laborers for the French Colonies in the Indian Territories belonging to Great Britain, and to embark Emigrants, being subjects of Her Britannic Majesty, either in British or French Ports in India, under the conditions hereinafter stipulated.

ARTICLE II.

The French Government shall intrust the direction of its operations in every centre of recruitment to an Agent chosen by itself.

Those Agents must be approved by the British Government.

Such approval is assimilated, with regard to the right of granting and withdrawal, to the Exequatur given to Consular Agents.

ARTICLE III

This recruitment shall be effected conformably to the regulations which now exist, or may hereafter be established, for the recruitment of laborers for British Colonies.

ARTICLE IV.

The French Agent shall, with regard to the operations of recruitment which are intrusted to him, enjoy for himself and for the persons whom he may employ, all the facilities and advantages afforded to the recruiting Agents for British Colonies.

ARTICLE V.

The Government of Her Britannic Majesty shall appoint in those British Ports where Emigrants may be embarked, an Agent who shall be specially charged with the care of their interests.

In French Ports the same duty with regard to Indian subjects of Her Britannic Majesty shall be confided to the British Consular Agent.

Under the term "Consular Agents" are comprised Consuls, Vice-Consuls, and all other Commissioned Consular Officers.

ARTICLE VI.

No Emigrant shall be embarked unless the Agent described in the preceding Article shall have been enabled to satisfy himself either that the Emigrant is not a British Subject, that his engagement is voluntary, that he has a perfect knowledge of the nature of his contract, of the place of his destination, of the probable length of his voyage, and of the different advantages connected with his engagement.

ARTICLE VII.

The contracts of service, with the exception provided for by Section 4 of Article IX, and by Section 2 of Article X, shall be made in India, and shall either bind the Emigrant to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony.

ARTICLE VIII.

The contracts shall, moreover, make stipulation for:—

1. The duration of the engagement, at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government, and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations, as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant, except in cases where, in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.

In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX, and XXI of the present Convention.

ARTICLE IX.

1. The duration of the Emigrant's engagement shall not be more than five years. In case, however, he shall be duly proved

to have absented himself from work, he shall be bound to serve a number of days equal to the time of his absence.

2. At the expiration of that period, every Indian who shall have attained the age of ten years at the time of his departure from India, shall be entitled to a return-passage at the expense of the French Government.

3. If he can show that his conduct has been regular, and that he has the means of subsistence, he may be allowed to reside in the Colony without any engagement; but from that time he will lose his right to a free return-passage.

4. If he consents to contract a new engagement, he will be entitled to a bounty, and will retain his right to a return-passage at the expiration of this second engagement.

The right of the emigrant to a return-passage extends to his wife, and to his children who quitted India under the age of ten years, as well as to those born in the Colonies.

Article X.

The emigrant shall not be bound to work more than six days in seven nor more than nine hours and a half a day.

The conditions of task-work and every other kind of regulation for work, shall be freely arranged with the laborer. The obligation to provide, on holidays, for the care of animals and the necessities of daily life, shall not be considered as work.

Article XI.

In British ports, the arrangements which precede the departure of the Emigrants shall be conformable to those prescribed by the regulations for the British Colonies.

In French Ports, the Emigration Agent or his deputies shall, on the departure of every Emigrant ship, deliver to the British Consular Agent a nominal list of the Emigrants who are subjects of Her Britannic Majesty, with a description of their persons, and shall also communicate to him the contracts of which he may require copies.

In such case, only one copy shall be given of all contracts of which the provisions are identical.

Article XII.

In the Ports of embarkation, the Emigrants who are subjects of Her Britannic Majesty shall be at liberty, conforming to the

regulations of Police relative to such establishments, to leave the Depots, or other place in which they may be lodged, in order to communicate with the British Agents, who on their part may at any reasonable hour visit the places in which the Emigrants, subjects of Her Britannic Majesty, are collected or lodged.

Article XIII.

Emigrants may leave India for the Colonies to the East of the Cape of Good Hope at all times of the year.

For other Colonies they may leave only from the 1st of August to the 15th of March. This arrangement applies only to sailing vessels; vessel using steam power may leave at any time of the year.

Every Emigrant sailing from India for the Antilles, between the 1st of March and the 15th of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

Article XIV.

Every Emigrant vessel must carry an European Surgeon and an Interpreter.

The Captains of Emigrant vessels shall be bound to take charge of any despatch which may be delivered to them by the British Agent at the Port of embarkation for the British Consular Agent at the Port of destination, and to deliver it to the Colonial Government immediately after his arrival.

Article XV.

In every vessel employed for the conveyance of Emigrants, subjects of Her Britannic Majesty, the Emigrants shall occupy, either between decks, or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of not less than five feet and a half.

No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal and at Chandernagore, and for every cubic space of sixty feet in other French Ports, and in the Presidencies of Bombay and Madras.

An Emigrant above the age of ten years shall count as an

adult, and two children from one to ten years of age shall count as one adult.

A place shall be fitted up for an hospital in every Emigrant ship.

Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

ARTICLE XVI.

Each shipment of Emigrants shall include a proportion of women equal to at least one-fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more, it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as may be fixed for the British Colonies.

ARTICLE XVII.

The British Agents at the embarkation shall have, at all reasonable times, the right of access to every part of the ship which is appropriated to the use of Emigrants.

ARTICLE XVIII.

The Governors of the French establishments in India shall make such administrative regulations as may be necessary to ensure the complete execution of the preceding stipulations.

ARTICLE XIX.

On the arrival of an Emigrant ship in any French Colony, the Government shall cause to be transmitted to the British Consular Agent any despatches which it may have received for him, together with—

1. A nominal list of all laborers disembarked who are subjects of Her Britannic Majesty.

2. A list of the deaths or births which may have taken place during the voyage.

The Colonial Government shall take the necessary measures to enable the British Consular Agent to communicate with the Emigrants before their distribution in the Colony.

A copy of the "List of distribution" shall be delivered to the Consular Agent.

He shall be informed of all deaths and births which may occur during the period of engagement, as well as of all changes of employer, and of all departures on a return-passage.

Every fresh engagement, or act of renunciation of the right to a free return-passage, shall be communicated to the Consular Agent.

ARTICLE XX.

All Emigrants being subjects of Her Britannic Majesty, shall, in the same manner as other subjects of the British Crown, and conformably to the ordinary rules of international law, enjoy, in the French Colonies, the right of claiming the assistance of the British Consular Agents; and no obstacle shall be opposed to the laborer's resorting to the Consular Agent and communicating with him; without prejudice, however, to the obligations arising out of his engagement.

ARTICLE XXI.

In the distribution of laborers no husband shall be separated from his wife, nor any father or mother from their children under fifteen years of age. No laborer shall be required to change his employer without his own consent, unless he be transferred to the Government, or to the person who has acquired the property on which he is employed.

Emigrants who may become permanently incapable of work, either by sickness or by any other cause beyond their own control, shall be sent back at the expense of the French Government, whatever time may still be wanting to entitle them to a free return-passage.

ARTICLE XXII.

All operations of Emigration may be carried on in the French Colonies by French or British vessels without distinction.

British vessels which may engage in those operations shall be bound to conform to all the measures of Police, health, and equipment which may apply to French vessels.

ARTICLE XXIII.

The labor regulations of Martinique shall serve as the basis for all the regulations of the French Colonies into which Indian Emigrants, subjects of Her Britannic Majesty, may be introduced.

The French Government engages not to introduce into those regulations any modification, the result of which would be to place the said Indian subjects in an exceptional position, or to

impose upon them conditions of labor more stringent than those prescribed by the said regulations.

ARTICLE XXIV.

The present Convention applies to Emigration to the Colonies of Re-Union, Martinique, Guadeloupe and its dependencies, and Guiana.

It may hereafter be applied to Emigration to other Colonies in which British Consular Agents shall be established.

ARTICLE XXV.

The provisions of the present Convention relative to the Indian subjects of Her Britannic Majesty shall apply to the Natives of every Indian State which is under the protection or political control of Her said Majesty, or of which the Government shall have acknowledged the supremacy of the British Crown.

ARTICLE XXVI.

The present Convention shall begin to take effect on the 1st of September 1861, and shall continue in full force for three years and a half. It shall remain in full force, if notice for its termination be not given in the course of the month of September of the third year, and then notice can be given only in the course of the month of September of each succeeding year.

In case of notice being given for its termination, it shall cease eighteen months afterwards.

It is understood that the stipulations of the present Convention relative to Indian subjects of Her Britannic Majesty introduced into the French Colonies shall be maintained in force in favor of the said Indians until they shall either have been sent back to their own country or have renounced their right to a return-passage.

And whereas a Convention was concluded and signed at Paris on the 25th day of July 1860 between Her said Majesty the Queen of Great Britain and Ireland and His said Majesty the Emperor of the French, consisting of the same Articles, but limited to the emigration to the French Colony of Re-Union from India of Native laborers to the number of not more than six thousand:

And whereas it is necessary, in order to give effect to the said Convention, and for the due protection of Natives of India Emi-

grating to French Colonies, that an Act of the Legislative Council of India should be passed; it is enacted as follows:—

Act repealed.

I. Act XIV. of 1839 and Section III. Act XXIV. of 1852 are repealed in so far as they render liable to penalties every person who shall make with any Native of India any contract to be performed in the French Colonies of Re-Union, Martinique, Gaudeloupe and its dependencies, or Guiana, or in any other French Colony in which a British Consular Agent has been or shall hereafter be established, and to which this Act shall be extended by an order of the Governor-General of India in Council as hereinafter provided, or who shall knowingly aid or abet any Native of India in emigrating from the Ports of Calcutta, Madras, and Bombay respectively, or from any French Port in India to any of the said Colonies.

Nomination of Agents for Calcutta, Madras, and Bombay.

Proviso.

II. The French Government may nominate a person to be Emigration Agent under this Act for each of the Ports of Calcutta, Madras, and Bombay. Provided that such person, before entering on the duties of his office under this Act, shall have been approved by Her Majesty.

Powers of Agents.

III. The Emigration Agents so nominated and approved as aforesaid shall be authorized, under the conditions prescribed in this Act, to recruit and engage Native laborers for all or any of the French Colonies aforesaid.

Operations of recruitment.

IV. The said Emigration Agents shall act in conformity with the regulations now or hereafter existing for the recruitment of Native laborers for British Colonies, and shall, with regard to the operations of recruitment which are entrusted to them, enjoy for themselves and the persons whom they may employ in the management of the said operations, all the facilities and advantages afforded to the Emigration Agents for British Colonies.

Protector of Emigrants.

V. The Protector of Emigrants at each of the three British Ports aforesaid, shall act for the British Government as Protector of laborers emigrating under the provisions of this Act. In French Ports in India the duty confided to the British Consular Agents by Article V. of the said Convention shall be performed under such instructions as may be given by the Governor-General in Council on that behalf.

VI. All contracts of service made with laborers emigrating under this Act, except the contracts mentioned in Section 4 of Article IX. and Section 2 of Article X. of the above recited Convention, shall be made in India, and shall bind the Emigrant either to serve a person designated by name, or to serve a person to whom he shall be allotted by the proper authority on his arrival in the Colony to which he emigrates.

Contracts of service, with certain exceptions, to be made in India. Effect of contract.

VII. The contracts of service shall be in accordance with the terms of the said Convention, and shall make provision for.—

Matters to be provided for in contract.

1. The duration of the engagement at the expiration of which the Emigrant shall receive a return-passage to India at the expense of the French Government. and the terms on which it will be competent to him to abandon or renounce his right to a free return-passage.

2. The number of days and hours of work.

3. The wages and rations as well as the rate of payment for extra work, and all the advantages promised to the Emigrant.

4. Gratuitous medical treatment for the Emigrant, except in cases where in the opinion of the proper Government Officer, his illness shall have arisen from his own misconduct.

5. In every contract of engagement there shall be inserted an exact copy of Articles IX, X, XX, and XXI. of the Convention hereinbefore recited.

VIII. It shall not be lawful to convey any Emigrant, being a native of India, who may embark for the purpose of laboring for hire in any one of the said Colonies from any of the three British Ports aforesaid in any ship or vessel, unless a license be obtained for carrying Emigrants in any such ship or vessel from the Government of the Presidency in which the Port is situated. A fee, not exceeding one Rupee per Emigrant, as may be regulated from time to time by the local Government, shall be demandable in respect of every such license, which fee shall be carried to the credit of the said Government, and the granting or withholding any such license shall be entirely discretionary with the Government; and in consideration of such license the Master of every ship conveying or destined to convey Emigrants from India, shall

Emigrant ships to be licensed.

Fee for license.

Master of ship to give Bond.

execute a Bond binding himself and his owners in a penal sum of ten thousand Rupees to conform to the several conditions herein provided, and the said Bond shall be executed in duplicate, that it may be put in suit either at the place of execution or in the Colony to which the Emigrants are to be conveyed, and one copy shall be forwarded to the British Consular Agents at such Colony, to be dealt with as the case may require. And every ship or vessel in which any such Emigrant shall be embarked without a license being obtained as aforesaid, shall be liable to be forfeited, and the Master thereof shall be liable, as for a misdemeanor, to a fine of one hundred Rupees for every such Emigrant so illegally embarked.

Penalty if ship be not licensed.

IX. It shall not be lawful for the Master of any vessel licensed as above mentioned to receive on board any Emigrant laborer, as above provided, unless such laborer shall have in his possession and show a certificate or pass, to be given to him by the Emigration Agent of the Port under this Act, countersigned by the Protector of Emigrants, stating his name and the name of his father, and his age, and certifying that, having appeared before such Agent, he has declared his willingness to proceed to work for hire in the Colony to which such vessel is bound, and has been engaged by him as an Emigrant to such Colony on the part of the Government thereof.

Master of vessel not to receive on board any Emigrant without a certificate.

Certificate what to state, &c.

X. The Protector of Emigrants shall ascertain, by personal communication with every Emigrant previously to his or her embarkation from the Port or place for which such Protector shall have been appointed, that such Emigrant has not been induced to emigrate by any fraud or by any false or unreasonable expectation, and is aware of the distance of the Colony to which he or she is about to emigrate from the place where he or she is about to embark, and that the real advantages likely to be derived from a removal to such Colony have been explained to such Emigrant, and that such Emigrant has been duly cautioned against unreasonable and unwarranted expectations; and that every such Emigrant is in good health and not incapacitated from labor by old age, be-

Protector to hold personal conference with every Emigrant before embarkation.

Enquiries to be made in public

dily infirmity, or disease; provided that every such Protector shall make the enquiries specified in such Section in an open Court or public Office to which all persons shall have admission.

XI. Before any ship or vessel, so licensed to carry Emigrant laborers as above provided, shall be cleared out from any of the aforesaid Ports for any of the Colonies aforesaid, it shall be necessary for the Master of such ship or vessel, provided any Emigrant of the description aforesaid shall embark therein, to obtain from the Protector of Emigrants at such Port as aforesaid, a certificate, under the hand of such Protector, to the effect following, that is to say—

Before Port-clearance, Master of Ship to obtain certificate from Emigration Protector stating—

First.—That such Protector has by personal communication done what is required on the part of such Protector by the last preceding Section of this Act.

That the foregoing Section has been complied with.

Second.—That all the directions contained in this Act for ensuring the health and safety of passengers have been duly complied with.

That the directions in this Act as to health, &c. have been complied with.

Third.—That such rules have been complied with as the Governor-General in Council shall from time to time frame touching the Medical attendance and Medical stores and the proper clothing to be provided, the species of provisions suited to Native habits, the number of women that should accompany the Emigrants, or other matters.

That the rules issued by the Governor-General in Council as to Medical attendance &c, have been complied with.

XII. The probable lengths of the voyages to the several French Colonies from the Ports aforesaid shall be deemed for the purposes of this Act to be as follows:—

Probable lengths of voyage.

From the Port of Calcutta to Re-Union—

Between the months of April and October inclusive, ten weeks.

Between the months of November and March inclusive, eight weeks.

From the Port of Madras—

Between the months of April and October inclusive, seven weeks.

Between the months of November and March inclusive, five weeks.

From the Port of Bombay—

Between the months of April and September inclusive, five weeks; and between the months of October and March inclusive, six weeks.

From the Port of Calcutta to Martinique, Guadeloupe and its dependencies, twenty weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks.

From the Port of Calcutta to Guiana, twenty-six weeks.

From the Port of Madras, nineteen weeks.

From the Port of Bombay, nineteen weeks.

Provided that the Governor-General of India in Council may, by order to be published in the Calcutta Gazette, extend this Act to any other French Colony not expressly named herein, at which a British Consular Agent is established and to which the application of the above recited Convention shall be extended, and in such order may declare the probable length of the voyage to such Colony. Such declaration shall have the same force and effect as if it formed part of this Section.

Time of sailing.

XIII. *Clause* 1.—Emigrants may leave India for the French Colonies to the East of the Cape of Good Hope at all times of the year.

Clause 2.- For the other French Colonies they may leave only from the 1st of August to the 15th of March. This arrangement applies only to sailing vessels; vessels using steam power may leave at any time of the year.

Clause 3.—Every Emigrant sailing from India for any French Colony Westward of the Cape of Good Hope between the 1st of March and the 15th of September, shall receive at least one double blanket over and above the clothing usually allowed to him, and may make use of it so long as the vessel is outside of the Tropics.

Emigrant vessel to carry an European Surgeon and an Interpreter. Captain to take charge of Despatches from the Protector to the British Consular Agent.

XIV. Every Emigrant vessel must carry an European Surgeon and an Interpreter. The Master of every Emigrant vessel shall be bound to take charge of any despatch which may be delivered to him by the Protector of Emigrants at the Port of embarkation, for the British Con-

sular Agent at the Port of destination, and to deliver it to the Colonial Government immediately after his arrival.

XV. *Clause* 1.—In every vessel employed for the conveyance of Emigrants, the Emigrants shall occupy, either between decks or in cabins on the upper deck firmly secured and entirely covered in, a space devoted to their exclusive use. Such cabins and space between decks shall in every part have a height of five feet and a half.

Space to be set apart for Emigrants on board ship.

Clause 2.—No compartment shall take more than one adult Emigrant for every cubic space of seventy-two feet in the Presidency of Bengal, and for every cubic space of sixty feet in the Presidencies of Bombay and Madras.

Clause 3.—An Emigrant above the age of ten years shall count as an adult, and two children from one to ten years of age shall count as one adult.

Clause 4.—A place shall be fitted up for a hospital in every Emigrant ship.

Clause 5.—Women and children shall occupy compartments of the vessel distinct and separate from those of the men.

XVI. There shall be actually laden on board of every ship or vessel conveying Emigrants into any of the Colonies aforesaid at the time of departure of such ship or vessel from the Port at which such laborers shall be embarked, good and wholesome provisions for the use and consumption of the said passengers, over and above the victualling of the crew, to the amount or in the proportion following: that is to say—a supply of water to the amount of five gallons for every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks; and a supply of rice, bread, biscuit, flour, oatmeal, or bread staffs to the amount of seven pounds weight to every week of the computed voyage for every such passenger. Provided always that, when any such ship or vessel shall be destined to call at a Port or place in the course of a voyage for the purpose of filling up her water-casks a supply of water at the rate before mentioned for every week of an average voyage to such Port or place of calling shall be deemed to be a compliance with this Regulation; and provided that the preceding Regula-

Amount or proportion of provisions to be carried by Emigrant vessels over and above the victualling of the crew.

Proviso.

tion regarding food shall be deemed to have been complied with in any case when it shall be made to appear that, by the special authority of the Governor-General of India in Council, any other articles of food were substituted for the articles above enumerated, as being in his judgment equivalent thereto. Provided also that when any such ship or vessel is fitted with Normandy's Apparatus for distilling sea-water, a reduction shall be allowed of one-third in the quantity of water required to be provided as aforesaid.

Before Port-clearance Master of vessel to obtain a Survey Certificate.

XVII. Before any such ship or vessel shall be cleared out on any such voyage, the Protector of Emigrants at the Port or place from which such ship or vessel shall be cleared out, shall survey or cause to be surveyed by some competent person, the provisions and water hereinbefore required to be on board for the consumption of passengers, and shall ascertain that the same are in good and sweet condition, and also that over and above the same, there is on board an ample supply of water and stores for the victualling of the crew of the ship or vessel, and shall also ascertain that such ship or vessel is generally reputed sea-worthy, and that the directions hereinbefore contained for ensuring the health and safety of the passengers have been complied with, and shall grant a certificate thereof, under his hand, to the Master of such ship or vessel.

Up to what time Master of vessel to furnish Emigrants with provisions.

XVIII. The Master of every ship or vessel conveying Emigrants to any of the said Colonies shall be bound to provide for and furnish to every such Emigrant, and his wife and children, a sufficient quantity of good and wholesome provisions for his, her, and their daily maintenance during such voyage, and during the space of forty-eight hours next after the arrival of such ship or vessel at the place of destination.

Emigrant vessel to carry copies and translations of these Regulations.

XIX. Two copies of Sections X. to XX. inclusive of this Act, and two copies of a translation thereof in such Native language as the local Government may direct, authenticated by the signature of the Protector of Emigrants at the Port or place at which such Emi-

grants shall embark, shall be delivered to the Master by such Protector at the time of clearance, and shall be kept on board of every ship or vessel carrying such Emigrants as aforesaid, during the whole voyage, and one of such copies or translations shall, upon request made at any reasonable time to the Master of the ship or vessel, be produced to any passenger for his perusal.

Master to deliver list to Emigration Agent.

XX. The Master of every ship or vessel carrying Emigrants from India to any of the Colonies aforesaid shall, before clearing out such ship or vessel, deliver to the Protector of Emigrants at the Port or place from which such vessel is cleared out, a list in writing, together with a duplicate of the same, specifying, as accurately as may be, the names, ages, and occupations of all and every the Emigrants on board such ship or vessel, and such Protector shall thereupon deliver to the said Master the counterpart of such list signed by such Protector; and the said Master shall, on the arrival of such ship or vessel at the place of destination, and previous to the disembarkation of any such Emigrants, give notice of the arrival of such ship or vessel, and deliver the said counterpart of such list to the British Consular Agent at the Colony at which the said ship or vessel may have arrived.

Penalty for non-compliance with particulars required before clearance.

XXI. If the Master of any ship or vessel shall, at any Ports aforesaid, take on board such ship or vessel any Emigrant laborer of the description aforesaid, and shall clear such ship or vessel for any of the said Colonies without having fully complied with every particular herein required previously to clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding two hundred Rupees for every Emigrant laborer so taken on board his ship or vessel.

Penalty for taking on board, after clearance, Emigrants not entered in list.

XXII. If the Master of any ship or vessel shall, after having cleared such ship or vessel at any such Port as aforesaid for any of the said Colonies, take on board any such Emigrant laborer as aforesaid without having entered such Emigrant laborer in such list as aforesaid, or without having obtained such duplicate as aforesaid, containing the entry of such Emigrant prior to

clearance, he shall be liable, on conviction before any Magistrate or Justice of the Peace, to a penalty not exceeding five hundred Rupees for every Emigrant so taken on board his ship or vessel.

Penalty for fraudulent acts whereby certificate becomes inapplicable to the altered state of the vessel.

XXIII. If any Master of any ship or vessel cleared for any of the said Colonies as aforesaid shall, after having obtained such certificate as aforesaid, fraudulently do or suffer to be done any act or thing whereby such certificate shall become inapplicable to the altered state of the ship or vessel, its passengers, or other matters to which such certificate relates, such Master shall be liable on conviction to a penalty not exceeding five thousand Rupees, besides incurring a forfeiture of any Bond executed in consideration of any license obtained for the vessel as originally described.

Custom House Officers and Pilots to exercise for the purposes of this Act, certain powers vested in the former for the prevention of smuggling.

XXIV. All the powers vested by law in the Officers of Customs in regard to the searching and detention of ships or vessels or otherwise for the prevention of smuggling on board thereof, may be exercised by such Officers for the prevention of illegal embarkation of such Emigrants as aforesaid on board ships or vessels bound for any of the said Colonies and of other offences against this Act; and all Pilots in the service of the Government of India shall be invested with the same powers and be charged with the same duties as Preventive Officers of Customs in this behalf.

Custom House Officers and Pilots at Calcutta to countersign papers.

XXV. Whenever a vessel shall clear from Calcutta for any of the said Colonies with Emigrant laborers duly embarked thereon, the Customs Officer on board such vessel shall countersign the pass or certificate brought on board such vessel by every such Emigrant laborer, and shall keep a register of every such Emigrant laborer as may come on board. And such Customs Officers shall remain on board such vessel until she shall arrive in Saugor roads, and shall not come away until muster of the crew and passengers and Emigrant laborers has been made in his presence and in that of the Pilot in charge of the vessel; and after the Customs Officer has taken muster and quitted the vessel, the Pilot shall continue to exercise the duties indicated in

To muster crew and passengers and Emigrants.

the last preceding Section of this Act; and it shall be lawful for him, if he shall deem it necessary, to require the Master or Commander to take a general muster of the crew and passengers and Emigrant laborers on board, and to sign a muster roll so taken. And every such Custom House Officer and Pilot shall make a complete report of the Emigrant laborers on board of any ship at the time of his quitting the same; and such report shall contain a declaration that to the best of the declarant's belief no additional Emigrant laborers have been received on board since obtaining the certificate, and that nothing else has been done or omitted to be done in the ship or vessel contrary to the provisions of this Act; and every such report or muster (if any) shall be transmitted without delay to the Protector of Emigrants at the Port. And any Custom House Officer or Pilot who shall wilfully make false, erroneous, or incomplete report of the Emigrant laborers on board of any ship, or who shall connive at the unauthorized embarkation of any such Emigrant laborers, shall be liable, besides dismissal, to a fine of five hundred Rupees, commutable if not paid, to imprisonment in the Civil Jail for six months, and the penalty shall be adjudged in like manner as similar penalties are adjudged for offences committed in respect to the Customs Revenue.

Report of Emigrants on board.

Penalty.

XXXVI. If any person shall forge, or shall use knowing it to be forged, any document required by this Act, such person shall be liable to be imprisoned for any period not exceeding seven years.

Punishment for forgery of document required by this Act.

XXXVII. All the several penalties to which the Masters of ships or vessels are liable by this Act shall be enforced by information laid before any Magistrate or Justice of the Peace at the instance of the Protector of Emigrants or of any Officer appointed for the purpose by the Government of the Presidency or place, or may be enforced by putting in suit the Bond given by the Master, if such Bond has been given in consideration of the license granted to the ship.

Penalties how to be enforced.

XXVIII. All fines and penalties imposed by a Magistrate or Justice of the Peace under the authority of this Act, if no other means for enforcing the payment of such fines and penalties are provided by this Act, may in case of

Levy of fines.

non-payment thereof be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate or Justice. When a warrant of distress is issued, the Magistrate or Justice may order the offender to be detained and kept in safe custody until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if before issuing such warrant of distress it shall appear to the Magistrate or Justice, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate or Justice whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued and upon the return thereof such insufficiency aforesaid shall be made to appear to the Magistrate or Justice, he shall, by warrant, commit the offender to jail, there to be imprisoned, according to the discretion of the Magistrate or Justice, for any term not exceeding two months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Numerical proportion of women to men by each shipment.

XXIX. Each shipment of Emigrants under this Act shall include proportion of women equal to at least one fourth of the number of men. After the expiration of three years, the numerical proportion of women shall be raised to one-third; after two years more it shall be raised to one-half; and after a further period of two years, the proportion shall be the same as has been or may be fixed for the British Colonies.

Protector to have right of access to every part of the ship.

XXX. The Protector of Emigrants shall have at all reasonable times the right of access to every part of every ship which is appropriated to the use of Emigrants under this Act.

Act when to take effect.

XXXI. This Act shall take effect as to the Emigration of Native laborers from India to the number of not more than six thousand to the Island of

Re-Union, from the time of the passing thereof, and shall take effect generally as to Emigration to the said Island and to Martinique, Guadeloupe and its dependencies, and Guiana, from the time when the Convention herein recited and set forth shall have been concluded and signed and shall take effect, and as to Emigration to any other French Colony, from such date as the Governor-General in Council in extending this Act to such Colony shall determine. From the time this Act shall so take effect, it shall continue in force so long as the said Convention shall continue in force and no longer. Provided that Act XIX. of 1856, *(to enable the Governor-General of India in Council to suspend the operation of certain Acts relating to the Emigration of Native laborers)* shall have full force and effect in respect to the Emigration of Native laborers to any or all of the French Colonies under this Act.

THE UNIVERSITIES. DEGREES.

ACT No. XLVII. OF 1860.

[*Received assent of the G. G. on the 6th October*, 1860.

1. Empowers the Senate to appoint by Bye-laws new Degrees and grant Diplomas or Licenses.

2. Extends to Degrees appointed under this Act, Acts II. XXII. and XXVII. 1857.

An Act for giving to the Universities of Calcutta, Madras, and Bombay the power of conferring Degrees in addition to those mentioned in Acts II. XXII. and XXVII. of 1857.

Preamble.

Whereas it is expedient to give to the Universities of Calcutta, Madras, and Bombay, established under Acts II. XXII. and XXVII. of 1857, the power of conferring Degrees other than the Degrees in that Act expressly provided for; It is enacted as follows:—

Power of Universities to confer Degrees.

I. It shall be competent to the Chancellor, Vice Chancellor, and Fellows of the Universities of Calcutta, Madras, or Bombay respectively to confer such Degrees and to grant such Diplomas or Licenses in respect of Degrees as the said Chancellor, Vice Chancellor, and Fellows of any such University shall have appointed or shall appoint by any

Bye-laws or Regulations made and passed or to be made or passed by them in the manner provided in the said Acts, and submitted to and approved by the Governor-General in Council as far as regards the University of Calcutta, or by the Governor in Council of Madras or Bombay as regards the Universities of Madras and Bombay respectively.

Construction.

II. All the provisions contained in the said Acts II. XXII. and XXVII. of 1857 with respect to the Degrees therein mentioned and to the examinations for those Degrees shall apply to any Degrees which may be conferred under this Act and to the examinations for such Degrees.

PRESIDENCY TOWNS POLICE.

ACT No. XLVIII. OF 1860.

[*Received assent of the G. G. on the 26th December*, 1860.

1. Repeals Act XIII. 1856 ss. 13, 15, 32, 33, 34, 38, 39, 40, 43, 50, 51, 52, 55, 59, 67, 75, 76, 78, 81, 82, 99, 105, 112, 115.

2. Police officer or the employee of, taking bribe, to be liable to dismissal and to fine.

3. Police officer not to resign or withdraw from duty without leave in writing, or 6 months' notice if of the mounted branch, or 2 months' if of any other branch: and subject to forfeiture of pay and fine if he does.

4, 5, 6. Gives 2 Magistrates summary jurisdiction to try the offences mentioned in Act XIII. 1856 ss. 27, 28, 29 and Act XXXI 1838 s. 5, in case of probable departure of ship with material witness before Sessions, and gives power to sentence to 12 months' imprisonment with hard labour and shipping. And (c. 2), in Bombay persons may be committed for such offences for trial at Petty Sessions; but (c. 3) such 2 Magistrates may commit to Supreme Court. And (5) upon conviction under ss. 27, 28, 29 may order restitution of property or fine equal to value of it; and (6) may also upon conviction under those Sections and under s. 4 of this Act impose a fine and distribute it as indemnity.

7. Person assaulting or resisting, or aiding or inciting any one to resist Police Officer, liable to fine 200 Rs. and 6 months' imprisonment.

8 Person escaping or attempting it, from legal custody, liable to 3 months' imprisonment.

9. Person, without satisfactory excuse, trespassing on house or ground belonging to Government or appropriated to public purposes liable to 20 Rs. fine.

10. Person having means and neglecting to maintain wife or child may be ordered to pay a monthly allowance of 50 Rs., which may be levied by distress, or be sentenced to imprisonment.

11. Having or keeping, without license, in Calcutta or Madras, any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy-shop, or place for sale or consumption of Gunja, Chandoo, or other preparation of opium, &c. or any Eating-house, Boarding-house, Lodging-house or other place of public resort, liable to fine 50 Rs. per day; and in Bombay to be fined.

12, 13. Commissioner of Police to grant the licenses with such conditions as may be sanctioned by Government; the license to be for not exceeding one year; to be only to those who have taken out Abkaree license when such is necessary: license fee 1 Re. and licensee may be required to put up board notifying his name, &c. And (13) license to be forfeited by breach of its conditions.

14. Owner or tenant of suspected brothels may be summoned and on proof of fact may be required to discontinue use of it.

15. Cards, dice, gaming-table and other instruments of gaming found in a house are to be presumptive evidence that the house is a common gaming house.

16. Any person taking from a child under 14 anything in pawn or pledge or buying of child under 14 any article without consent or knowledge of owner, to be liable to not exceeding 100 Rs.

17, 18. Retail dealer having, without satisfactory excuse, false weights or measures, to be liable to fine or imprisonment, and forfeiture of the weight or measure. The Commissioner's standard to be used as the test; and (18) Inspector or Superior Officer of Police may enter premises to inspect weights and measures, or the Clerk of the market in markets.

19. Commissioner of Police to define the limits within which fines shall be incurred by the offences viz. of, (1) rash or negligent riding or driving; (2) driving or riding elephant or camel without permission; or (3) any vehicle without light between specified hours of night or (4) driving otherwise than on the left or near side of the road; or (5) showing or training horses or driving carriages in places not permitted; or (6) letting horses loose or suffering ferocious dogs to be at large or urging on dog to worry animals; or (7) negligence or ill-usage in driving cattle and thereby causing mischief; or (8) placing cart, carriage or horses beyond control; or (9) obstructing road or thoroughfare by cart, truck, carriage, or horse; or (10) leading or riding or fastening any animal so as to let it obstruct a footway; or (11 & 12) obstructing thoroughfare by box, bale, or anything; or by exposing goods, setting out stall &c. in the thoroughfare; or (13) beating drum or tom-tom or blowing wind-instrument or beating metal instrument except as permitted; or (14) lighting fires, discharging guns, throwing up fire-works or sending up fire balloon; or (15) putting up posts for illumination; or (16) bill-sticking or other defacement of building without consent of occupier; or (17) bathing or washing in public; or (18) obstructing persons bathing in bathing places, by intrusion or other specified incon-

veniences; or (19) using indecent and other offensive words, or posting up written or printed paper with intent or tendency to provoke breach of the peace.

20. Empowers Commissioner of Police in Bombay to make rules for blasting of rocks, &c.

21. Attaches to cruelty or causing cruelty to any animal, penalty not more than 100 Rs. and in default of payment rigorous or simple imprisonment for not more than 3 months.

22. Attaches to being found drunk and incapable, or being riotous disorderly or indecent, fine 20 Rs. or simple or rigorous imprisonment for 14 days.

23. In Calcutta and Straits Settlement, boats not to ply for passengers unless registered at Police Office; registration to be in force one year and 1 Re. to be paid for it; and unregistered manjee plying to be liable to fine not above 50 Rs.

24. For Summons and subpœna under this Act 8 as. and 4 as. respectively to be paid.

25. Empowers Magistrate to order the keeper of the gaol to bring up prisoner for examination.

26, 27. Gives a remedy for levy of fines; and (27) establishes a fine for failure to obey summons or subpœna.

28. Empowers Police to seize and impound stray animals, and to sell them if not redeemed within 10 days.

29, 30. Limits actions for anything done under this Act to 3 months, and requires a month's notice with specified particulars to be given, and (30) allows defendant to plead the general issue, and exempts him from costs unless the judge certifies for them.

An Act to amend Act XIII. of 1856 (for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca).

Preamble.

Whereas it is expedient to amend certain provisions of Act XIII. of 1856: It is enacted as follows:—

Sections repealed.

I. Sections XIII, XV, XXXII, XXXIII, XXXIV, XXXVIII, XXXIX, XL, XLIII, L, LL LII, LV, LIX, LXVII, LXXV, LXXVI, LXXVIII, LXXXI, LXXXII, XCIX, CV, CXII, and CXV, of Act XIII. of 1856, *(for regulating the Police of the Towns of Calcutta, Madras, and Bombay, and the several Stations of the Settlement of Prince of Wales' Island, Singapore, and Malacca)*, are repealed, and the following Sections shall be read with and taken as part of the said Act XIII. of 1856.

Police Officers taking bribes.

II. Whoever, being a member of the Police Force or being employed in any Police Office, asks for or takes any bribe or unauthorized reward, may be dismissed by order of the Commissioner, and upon conviction before a Magistrate shall be liable to a fine not exceeding five hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six months.

Members of Police Force not to resign without leave, or six or two months' notice.

III. No member of the Police Force, to be enrolled under this Act, shall be at liberty to resign his office, or to withdraw himself from the duties thereof, unless expressly allowed so to do in writing by the Commissioner, or unless he shall have given to the Commissioner six months' notice of his intention if a member of the mounted branch of the said Force, and two months' notice if a member of any other branch; and every member of the said Force, who shall so resign or withdraw himself without such leave or notice, shall be liable, on the order of the Commissioner, to forfeit all arrears of pay then due to him; and, on the sentence of a Magistrate, shall think fit, to pay a fine not exceeding fifty Rupees, or to be imprisoned with or without hard labor for any term not exceeding two months.

Jurisdiction of Police Magistrate in certain cases.

IV. *Clause* 1. Whenever in the Towns of Calcutta and Madras, or in any of the Stations of the Straits Settlement, any person is charged before the Magistrate with having committed any of the offences mentioned in Sections XXVII. XXVIII. and XXIX. of Act XIII. of 1856, or with having committed within the local limits of the Supreme Court or of the Courts of Judicature of such Stations, the offence mentioned in Section V. of Act XXXI. of 1838, and by reason of the value of the property charged to have been stolen, embezzled, misapplied, or obtained or attempted to be obtained under false pretences, or for any other cause, the offence is not by law summarily cognizable by a single Magistrate, and some material witness is about to sail from the Port, it shall be lawful for two Magistrates, upon proof of the matters aforesaid, if they shall deem it probable (with reference to the time appointed for the departure of the ship or vessel in which such witness is about to sail) that the prosecution by indictment in the Supreme Court or in the Court of Judicature of the person so

charged will be ineffectual in consequence of the absence of such material witness, to hear and determine the charge summarily under this Act, and, on conviction, to sentence the offender to imprisonment with or without hard labor for a term not exceeding twelve months, and in cases falling under the said Section XXVII, also to sentence such offender, if a male, to corporal punishment not exceeding thirty stripes of a rattan.

Similar charges at Bombay to be tried by the Petty Sessions.

Clause 2. In the Town of Bombay a Magistrate may commit persons charged with such offences as aforesaid for trial before the Court of Petty Sessions, and the said Court may, on conviction, sentence the offender to a like term of imprisonment or punishment.

Commitment to Supreme Court.

Clause. 3. It shall be lawful for the said two Magistrates and the said Court of Petty Sessions respectively, if they deem that the charge is from any circumstances fit to be made the subject of prosecution by indictment rather than to be summarily disposed of, to commit the person charged for trial before the Supreme Court or Court of Judicature.

Restitution of stolen property, if forthcoming, to owner, or imposition of fine on offender.

V. Upon a conviction for any of the offences mentioned in Sections XXVII. XXVIII. and XXIX. of Act XIII. of 1856, or under the foregoing Section of this Act, the Magistrate or Magistrates (as the case may be), and in Bombay the Court of Petty Sessions in cases committed to that Court, may order the restitution of the property forming the subject of the charge, if forthcoming, to the owner: and in case of its not being restored pursuant to such order, may impose on any person refusing or neglecting to restore the same a fine not exceeding the value of the said property, which the Magistrate or Court may order to be paid to the owner or his representative.

Imposition of fine (in addition to punishment for the offence) to indemnify owner for loss sustained.

VI. Upon a conviction for any of the offences mentioned in Sections XXVII. XXVIII. and XXIX. of Act XIII of 1856, and in Section IV. of this Act, the Magistrate or Magistrates (as the case may be,) and in Bombay the Court of Petty Sessions in cases committed to that Court, may impose upon the offender, in addition to the punishment for the offence, a fine not exceeding the loss appearing to be caused to the persons who have

suffered thereby, and may pay or distribute the proceeds of the said fine or any part thereof, to or for the benefit of the said persons.

Assaulting Policeman in execution of duty.

VII. Whoever assaults or resists, or aids or incites any person to assault or resist any Police Officer in the execution of his duty, shall be liable to a fine not exceeding two hundred Rupees, or to imprisonment with or without hard labor for any term not exceeding six months, and if the offender shall at the time of committing the offence be undergoing a former sentence of imprisonment, the imprisonment awarded under this Section shall commence and take effect from and after the expiration of such former sentence.

Penalty for escaping from a place of legal confinement.

VIII. Whoever escapes or attempts to escape from or out of any legal custody, shall be liable to be imprisoned with or without hard labor for any term not exceeding three months; and such imprisonment shall commence and take effect from and after the expiration of any sentence of imprisonment under which such person may be confined at the time of committing the offence aforesaid.

Penalty for wilful trespass on property.

IX. Whoever, without satisfactory excuse, wilfully trespasses in or on any dwelling-house or premises, or any land or ground attached thereto, not thereby causing any actual damage, or on any ground belonging to Government, or appropriated to public purposes, shall be liable to a fine not exceeding twenty Rupees.

Magistrate may make order of maintenance for wives and children.

X. If any person, having sufficient means, neglects or refuses to maintain his wife or any legitimate or illegitimate child unable to maintain himself, it shall be lawful for a Magistrate, upon due proof thereof, to order such person to make a monthly allowance for the maintenance of his wife or such child as aforesaid, at such rate, not exceeding fifty Rupees in the whole, as to the Magistrate shall seem reasonable; and if such person shall wilfully neglect to comply with the said order, the Magistrate may, by warrant direct the amount due to be levied in the manner hereinafter provided for levying fines; or may order him to be imprisoned with or without hard labor for any term not exceeding one month. Provided always that any such person shall be at liberty to apply to the Magistrate, from time to time, for a reduction of such

monthly allowance, on proof of an alteration in the circumstances of himself, his wife, or child, justifying such reduction. Provided also that if such person offers to maintain his wife on condition of her living with him, and his wife shall refuse to live with him, it shall be lawful for the Magistrate to consider any grounds of refusal stated by such wife; and he may make the order aforesaid, notwithstanding such offer aforesaid, if he shall be satisfied that such person is living in adultery or that he has habitually treated his wife with cruelty.

Proviso.

XI. Whoever, in the Towns of Calcutta and Madras has or keeps any Hotel, Tavern, Punch-house, Ale-house, Arrack or Toddy shop, or place for the sale or consumption of Opium, Hemp, or other intoxicating drug, plant, or substance, or any Eating house, Coffee-house, Boarding-house, Lodging-house, or other place of public resort and entertainment, wherein provisions, liquors, or refreshment are sold or consumed (whether the same be kept or retailed therein or procured elsewhere), without a license from the Commissioner of Police; and whoever in the Town of Bombay has or keeps any such Hotel, Tavern, shop, or place, or who sells by retail in any place any spirituous or fermented liquors without such license, shall be liable to a fine not exceeding fifty Rupees for every day that such unlicensed house or place of any kind is kept open, or that such unlicensed sale is continued; provided that nothing in this Section shall apply to the sale, in reasonable quantities, of any drug, plant, or substance in any Druggist's or Chemist's shop for medicinal purposes only.

Calcutta and Madras.
Penalty for keeping Taverns and places of public entertainment without a license from the Commissioner of Police.

Bombay.
Penalty for keeping such house and for retailing spirits in any place without a license.

XII. The Commissioner of Police shall, from time to time, grant licenses to the keepers of such houses or places of public resort and entertainment as aforesaid in the said Towns, and upon such conditions, to be inserted in every such license, as he, with the sanction of the local Government, from time to time, shall order, for securing the good behaviour of the keepers of the said houses or places of public resort and entertainment, and the prevention of drunkenness and disorder among the persons frequent-

Licenses by Commissioner of Police for keeping Taverns and places of public entertainment.

ing or using the same; and the said licenses may be granted by the said Commissioner for any term not exceeding one year; provided always that it shall not be lawful for the said Commissioner to grant a license to open or establish, or keep open, any house of public entertainment in which any provisions, liquors, or refreshments of any kind, or in which any Gunja, Chandoo, or other preparation of Opium, Hemp, or other intoxicating drug, plant, or substance, may be sold or consumed, to any person who has not taken out a license for the retail sale of such articles, if a license be necessary, under the Abkaree or Excise Laws for the time being in force; and any such license granted by the Commissioner shall become void whenever the license necessary under the Abkaree or Excise Laws shall terminate or be re-called. And every holder of such license may be required by the Commissioner to fix in a conspicuous part of the house or place specified in the license a board, on which shall be legibly painted, in the English and Vernacular languages, the name of the holder, and the articles he is licensed to deal in. For every license granted under this Section there shall be levied a fee of one Rupee. But such fee shall not interfere with the levy of any fee, tax, or duty on licenses to retail spirituous liquors in the Islands of Bombay and Colaba chargeable under Act V. of 1842.

Licenses to be granted only to persons who have taken out the requisite Abkaree licenses.

Fees on licenses.

XIII. A breach of any of the conditions of a license granted under the last preceding Section shall, besides forfeiture of the license, be punishable by a fine not exceeding one hundred Rupees, and such fine shall be recovered from the person licensed, notwithstanding that such breach may have been owing to the default or carelessness of the servant or other person in charge of the shop or place of sale.

Forfeiture of license and fine.

XIV. On proof to the satisfaction of the Commissioner of Police, or of a Magistrate, that a house is used as a common brothel, or lodging-house for prostitutes, or disorderly persons of any description, to the annoyance of the respectable inhabitants of the vicinity, such Commissioner or Magistrate may summon the owner or tenant of the house, to answer the complaint, and on being satisfied that the house is so used, and is therefore a source of annoyance and offence to the

Brothels.

neighbours, may order the owner or tenant to discontinue such use of it, and if he shall fail to comply with such order within five days, may impose upon him a fine to the extent of twenty-five Rupees for every day thereafter that the house shall be so used.

Common gaming-house.

XV. When any cards, dice, gaming-table, or cloth, boards, or other instruments of gaming, are found in any house, room, or place, if information has been given on oath to the Commissioner of Police that it is suspected of being used as a common gaming house, or about the person of any of those who are found therein, it shall be evidence, until the contrary is made to appear, that such house, room, or place is used as a common gaming-house, and that the persons found therein were there present for the purpose of gaming, although no play was actually seen by the Police Officer or any of his assistants.

Taking pledge from child under the age of fourteen.

XVI. Whoever takes from any child, apparently under the age of fourteen years, any article whatsoever as a pawn, pledge, or security for any sum of money lent or advanced to such child, or without the knowledge and consent of the owner of the article, buys from such child any article whatsoever, shall be liable to a penalty not exceeding one hundred Rupees.

Penalty for using false weights and measures.

XVII. Whoever, dealing in any articles by retail, has, in or about his shop or premises, or otherwise in his possession, without lawful or satisfactory excuse, any false instrument for weighing, or any false weight, or false measure of length or capacity, shall be liable to a fine not exceeding fifty Rupees, or to imprisonment with or without hard labor for a term not exceeding one month; and every such false instrument, weight, or measure shall be forfeited and destroyed.

Standards of weights and measures.

Weights and measures shall be held to be false when they do not agree with standards to be kept in the Office of the Commissioner of Police, and in Bombay when they do not agree with the standards to be kept in the Offices of the Commissioner of Police and of the Clerk of the Markets.

XVIII. Any Inspector or Superior Officer of Police may enter

Powers of Inspector &c., to enter shops to seize false weights and measures.

any shop or premises for the purpose of inspecting the weights and measures and instruments for weighing kept or used therein, and may seize any weight, measures, or instrument for weighing which he may have reason to believe is false. The power granted by this Section may, in Bombay, be exercised by the Clerk of the Markets.

Penalty for the following offences in public streets, &c.

XIX. Whoever, within such limits as shall be from time to time defined by the Commissioner of Police with the sanction of the local Government, in any public street, road, thoroughfare, or place of public resort, commits any of the following offences, shall be liable to a fine not exceeding fifty Rupees:—

Furious or negligent driving or riding.

1. Whoever drives or rides any animal, or drives any vehicle, in a manner so rash or negligent as to indicate a want of due regard for the safety of others.

Driving &c., elephant or camel.

2. Whoever drives, rides, or leads any elephant or camel without permission from the Commissioner of Police.

Driving a vehicle without a sufficient light.

3. Whoever drives any vehicle of any description, at any time between three quarters of an hour after sunset, and one hour before sun-rise, without a sufficient light, except when, in the opinion of the Magistrate, there may be sufficient moonlight to render such light unnecessary.

Driving vehicle otherwise than on left side of the road.

4. Whoever, without reasonable cause, shall drive a carriage, cart, or other vehicle otherwise than on the left or near side of the road.

Exposing for show, horses, or cleaning or repairing conveyances, or training horses in places not allowed by the Commissioner.

5. Whoever exposes for show, hire, or sale, any horse or other animal, or any carriage, or cleans or dresses any horse or other animal, or cleans any carriage or other conveyance, or makes or repairs any part of any cart or carriage, except in cases of accident where repair on the spot is necessary; or trains or breaks any horse, except in such place and at such times as may be allowed by the Commissioner.

Letting loose horses, ferocious dogs, &c.

6. Whoever negligently lets loose any horse, or suffers to be at large any ferocious dog without a muzzle, or sets on or urges any dog or other animal to attack, worry, put in fear any person, horse, or other animal.

7. Whoever, by negligence or ill-usage in driving cattle, causes any mischief to be done by such cattle, or in any wise misbehaves himself in the driving, management, or care of such cattle, so as to cause mischief or obstruction.

Negligence in driving cattle.

8. Whoever, being in charge of a cart, carriage, or horse, leaves it at such a distance as not to have the same under due control.

Leaving cart, &c. without control.

9. Whoever causes any cart or truck, with or without horses or cattle, to remain or stand longer than may be necessary for loading or unloading, except at places lawfully appointed fort he purpose; or leaves any cart, carriage, or truck, or fastens any horse or other animal, so as to cause any obstruction in any thoroughfare.

Obstructing road or thoroughfare by carriage, &c.

10. Whoever leads or rides any horse or other animal, or draws or drives any cart, carriage, or truck upon any foot-way, or fastens any horse or animal so that it can stand across or upon any foot-way.

Obstructing foot-way.

11. Whoever leaves any box, bale of goods, or any other thing whatsoever so as to cause obstruction in any thoroughfare.

Obstructing thoroughfare by boxes, bales of goods, &c.

12. Whoever exposes for sale, or sets out in or upon any stall, booth, show-board, cask, or basket, or otherwise, any meat, fish, vegetable, fruit, groceries, or any other thing whatsoever, so as to cause obstruction in any thoroughfare.

Exposing articles for sale so as to cause obstruction.

13. Whoever beats a drum or tom-tom, or blows a horn or trumpet, or beats or sounds any brass or other metal instrument, or utensil, except at such times and places as shall be from time to time allowed by the Commissioner of Police.

Beating drum, tom-tom, &c.

14. Whoever sets fire to, or burns any straw or other matter, or lights any bonfire, or wantonly discharges any fire-arm or air-gun, or lets off or throws any fire-work, or sends up any fire-balloon, in or near any public street, road, or thoroughfare, except at such times and places as shall from time to time be allowed by the Commissioner of Police.

Lighting fires and discharging guns, fire-works, &c.

15. Whoever, without the consent of the Commissioner of

Illuminations.

Police, puts up any post or other thing on the side of any public street, for the purpose of affixing thereon lamps to illuminate the street.

Affixing bills, or otherwise defacing houses, &c.

16. Whoever, without the consent of the owner or occupier affixes any bill or notice, or any paper, against or upon any building, wall, or fence, or writes upon, defaces, or marks any such building, wall, or fence with chalk, or paint, or in any way whatsoever.

Bathing, &c. in public street or aqueduct.

17. Whoever bathes or washes himself in any public street, or in, upon, or by the side of any public tank, reservoir, or aqueduct, not being a place set apart for such purpose.

Obstructing persons at bathing places.

18. Whoever obstructs or incommodes a person bathing at any place set apart as a bathing place, by wilful intrusion, or by using such place as a landing-place, or by anchoring or otherwise fastening or keeping boats, or by washing horses, cattle, or dogs at or near such place, or in any other way.

Indecent language.

19. Whoever uses any indecent, threatening, abusive, or insulting words, or behaves in a threatening or insulting manner, or posts up or affixes, or exhibits any indecent, threatening, abusive, or insulting printed, lithographed, or written paper or drawing, with the intent to provoke a breach of the peace, or whereby a breach of the peace may be occasioned.

Commissioner of Police in Bombay to make rules for blasting of rocks.

XX. The Commissioner of Police in Bombay shall, from time to time, subject to the orders of the local Government, make and publish in the Government Gazette, rules for the blasting of rocks in or near any public road, street, thoroughfare, or place. in the Islands of Bombay and Colaba; and may give licenses for such Operations when he shall think fit, and every person who shall blast any such rocks, otherwise than according to the provisions of such rules, or who shall violate any condition of a license granted under this Section, shall be liable to a fine not exceeding one hundred Rupees.

Cruelty to animals.

XXI. Whoever cruelly beats, ill-treats, abuses, or tortures, or causes or procures to be cruelly beaten, ill-treated, abused, or tortured any animal

shall, for every such offence, be liable to a fine not exceeding one hundred Rupees, and in default thereof to imprisonment with or without hard labor for a period not exceeding three months.

Penalty for drunkenness, or riotous or indecent behaviour in public.

XXII. Whoever is found drunk and incapable of taking care of himself, or is guilty of any riotous, disorderly, or indecent behaviour in any street or thoroughfare, or in any place of public amusement or resort; and whoever is guilty of any violent, disorderly, or indecent behaviour in any Police Court, Office, Station, or Section House, shall be liable to a fine not exceeding twenty Rupees, or to imprisonment, with or without hard labor, for a term not exceeding fourteen days.

In Calcutta and the Ports of the Straits Settlement, passenger boats to be registered

XXIII. No boat shall ply for passengers in the Port of Calcutta, or in any of the Ports of the said Settlement, unless duly registered at the Police Office. The following particulars shall be entered in the Register:—

First.—Number of the boat.

Second.—Name and residence of the owner, and of the Manjee.

Third.—Number of the crew.

Fourth.—Number of persons the boat is permitted to carry.

Registration.

The registration shall be in force for one year; and every change of the owner or Manjee within that time shall be therein noted. A fee of one Rupee shall be paid on registration.

Name of owner or Manjee, number, &c., to be painted.

The owner or Manjee of every such registered boat shall cause to be painted on a conspicuous part of it, in the English and Vernacular languages, the registered number thereof, the number of the crew, and the number of passengers permitted to be carried.

Penalty.

The owner or Manjee of a boat plying for passengers without being duly registered, or carrying more passengers, or with a less crew than is stated in the register, or not having the prescribed particulars painted on it, shall be liable to a fine not exceeding fifty Rupees.

Fees on summons and subpœnas.

XXIV. For every summons issued by the Commissioner of Police or a Magistrate under this Act, there shall be paid a fee of eight annas, and for every subpœna so issued there shall be paid a fee of four annas.

Proviso.

Provided that it shall be lawful for such Commissioner or Magistrate in any case to remit such fee or fees if he shall be satisfied that the party complaining is unable to pay the same, or if the complaint is made by any Police Officer in execution of his duty.

Power to Magistrates to order prisoners to be brought up to the Police Office.

XXV. When any Magistrate is desirous of examining any prisoner confined in a Civil or Criminal Jail or House of Correction as a witness or defendant, with respect to any charge, case, or proceeding pending before him, it shall be lawful for such Magistrate to issue an order addressed to the Keeper or Governor of the said Jail or House of Correction, requiring him to bring such prisoner in proper custody, at a time to be therein named, to the Police Office, for examination; and the Keeper or Governor of the said Jail or House of Correction, on the receipt of such order shall act in accordance therewith, and shall provide for the safe custody of the prisoner during his absence from prison for the purpose aforesaid.

Levy of fines.

XXVI. All fines and penalties imposed by a Magistrate of Police under the authority of this Act, or of any other Act heretofore passed, or which shall hereafter be passed, if no other means for enforcing the payment of such fines and penalties are or shall be provided by such Act, may, in case of non-payment thereof, be levied by distress and sale of the goods and chattels of the offender by warrant of the Magistrate. When a warrant of distress is issued, the Magistrate may order the offender to be detained and kept in safe custody, until return can be conveniently made to such warrant, unless the offender enter into a recognizance, with or without sureties, conditioned for his appearance before him on the day appointed for such return, such day not being more than eight days from the time of taking such recognizance; but if, before issuing such warrant of distress, it shall appear to the Magistrate, by the admission of the offender or otherwise, that no sufficient distress can be had within the jurisdiction of such Magistrate whereon to levy such fine or penalty, he may, if he think fit, refrain from issuing such warrant of distress; and in such case, or if such warrant shall have been issued, and, upon the return thereof, such insufficiency as aforesaid shall be made to appear to the Magis-

trate, he shall, by warrant, commit the offender to Jail, there to be imprisoned, with or without hard labor, for any term not exceeding two months where the amount of the fine shall not exceed fifty Rupees, and for any term not exceeding four months where the amount shall not exceed one hundred Rupees, and for any term not exceeding six months in any other case; the commitment to be determinable in each of the cases aforesaid on payment of the amount.

Punishment for non-attendance on summons or subpœna.

XXVII. When any person shall be served with a summons or subpœna under this Act, and shall fail to attend before the Commissioner or Magistrate issuing such summons or subpœna, according to the exigency thereof, he shall be liable to a fine not exceeding twenty Rupees forevery such offence, and in default of payment to imprisonment for one week if the fine be not sooner paid.

Stray animals to be impounded and sold unless redeemed within ten days.

XXVIII. It shall be lawful for all persons, and it is hereby declared to be the special duty of all Police Officers, to seize all cattle or other animals found straying upon the roads, streets, or thoroughfares, or trespassing on any of the grounds or property of the inhabitants, or of the Government, and to confine such animals in any public pound which shall for such purpose be from time to time, appointed by the Commissioner of Police; and if such animals shall not be respectively redeemed by the woners of the same within ten days after being so pounded, by paying to the person to be appointed by the said Commissioner to have charge of such pound, the fee of eight annas for every goat, sheep, or hog, and one Rupee for every other animal, together with the expenses of feeding the same while impounded, according to a daily rate to be settled by the said Commissioner, such animals so impounded shall be publicly sold, and the produce of such sale, after paying the said fee, and also the expenses of feeding, shall be paid to the owners of such animal, or, in default of their claiming such produce for the space of fifteen days after such sale shall be retained by the said Commissioner, and credited to the Police Superannuation Fund.

Limitation of action.

XXIX. *Clause* 1. All actions and prosecutions against any person, which may be lawfully brought for any thing done, or intended to be done, under the

provisions of this Act, shall be commenced within three months after the act complained of shall have been committed, and not otherwise; and notice in writing of such action, and of the cause thereof, shall be given to the defendant one month at least before the commencement of the action; and in every such action it shall be expressly alleged in the plaint, that the act complained of was done maliciously and without reasonable or probable cause, and if at the trial of any such action, upon the general issue being pleaded as hereinafter provided, the plaintiff shall fail to prove such allegation, he shall be non-suited, and a verdict shall be given for the defendant.

Notice of action.

Clause 2. The defendant in any such action may plead the general issue and give this Act and the special matter in evidence at any trial to be had thereupon; and no plaintiff shall recover in any such action, if tender of sufficient amends shall have been made before such action brought, or if a sufficient sum of money shall have been paid into Court after such action brought, by or on behalf of the defendant; and if a verdict shall pass for the defendant, or the plaintiff shall become nonsuit, or discontinue any such action after issue joined, or if, upon demurrer or otherwise, judgment shall be given against the plaintiff, the defendant shall recover his full costs as between attorney and client, and have the like remedy for the same, as any defendant hath by law in other cases; and though a verdict shall be given for the plaintiff in any such action, such plaintiff shall not have costs against the defendant, unless the Judge, before whom the trial shall be, shall certify his approbation of the action, and of the verdict obtained thereupon.

Plea.

Tender of amends.

Costs.

EMIGRANT VESSELS.

ACT No. XLIX. OF 1860.

[*Received assent of the G. G. on the 26th December*, 1860.

1, 2. Modifies the Schedules of Act XV. 1842; XXI. 1844; and XXXI. 1855, by allowing reduction of the quantity of water to be shipped, if the vessel is provided with Normandy's Distilling Sea-water Apparatus; and (2) directs that Acts XX. 1853; VIII. 1847; IV. 1852 shall be taken to

refer to Act XV. 1842 as herein amended: and Acts XII. 1860; XXXIII. 1860; and XLI. 1860 shall be taken to refer to Act XXXI. 1855.

An Act relating to Vessels carrying Emigrant Passengers to the British Colonies.

Preamble.

Whereas it is expedient to permit the use at sea of the Apparatus known as Normandy's Apparatus for distilling sea water, and in consideration thereof to reduce the proportion of fresh water in tanks or casks which vessels conveying Emigrants are required to carry; It is enacted as follows:—

Reduction of one-third in quantity of fresh water to be carried in Emigrant Vessels, when such Vessels are supplied with Normandy's Apparatus for distilling sea water.

I. The Schedules of Act XV. of 1842 (*for regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to the Island of Mauritius*), Act XXI. of 1844 (*for regulating the Emigration of the Native Inhabitants of the Territories under the Government of the East India Company to Jamaica, British Guiana, and Trinidad*), and Act XXXI. of 1855 (*relating to the Emigration of Native laborers to the British Colonies of St. Lucia and Grenada*), which require that on board every ship or vessel carrying Emigrant passengers under those Acts, there shall be provided a supply of water to the amount of five gallons to every week of the computed voyage for every passenger on board such ship or vessel, such water being carried in tanks or sweet casks, shall be read subject to the following modification, namely, whenever the Officer who by law shall be required to certify compliance with the said provisions contained in the said Schedules of such Acts, shall certify that such ship or vessel is provided with Normandy's Apparatus for distilling sea water, a reduction shall be allowed of one-third in the quantity of water so required to be provided.

Construction of Act.

II. Act XXI. of 1843 (*for regulating the Emigration of laborers from India to Mauritius*), Act VIII. of 1847 (*for rendering lawful the Emigration of laborers from the Port of Madras in the Presidency of Fort St. George to Mauritius*), and Act IV. of 1852 (*to amend the law relating to Emigrant Vessels and the Emigration of laborers*) shall be taken to refer to Act XV. of 1842 as herein amended; and Act XII. of 1860 (*relating to the Emigration of Native*

laborers to the British Colony of Saint Vincent), Act XXXIII. of 1860 *(relating to Emigration to the British Colony of Natal)*, and Act XLI. of 1860 *(relating to the Emigration of Native laborers to the British Colony of Saint Kitts)* shall be taken to refer to Act XXXI. of 1855 as herein amended.

BENGAL. LAW-HOLIDAYS.

ACT No. L. OF 1860.

[*Received assent of the G. G. on the 26th December*, 1860.

1. Repeals R. III. 1798 ss. 2, 3; R. VIII. 1805 s. 13; and R. I. 1806 s. 10, all of Bengal.

2 Sudder Courts to publish annual list of holidays for Civil Courts, as settled by the Government.

An Act to amend the Law relating to Vacations in the Civil Courts within the Presidency of Fort William in Bengal.

Preamble.

Whereas it is expedient to amend the Law relating to Vacations observed in the Civil Courts within the Presidency of Fort William in Bengal; It is enacted as follows :—

Laws repealed.

I. Sections II. and III. of Regulation III. 1798 of the Bengal Code, Section XIII. of Regulation VIII. 1805 of the same Code, and Section X. of Regulation I. 1806 of the same Code, are hereby repealed.

Sudder Courts to prepare and publish an annual list of Holidays to be observed.

II. Subject to such orders as may from time to time be issued by the Governor-General of India in Council or by the local Government, the Courts of Sudder Dewanny in the Presidency aforesaid shall prepare a list of days to be observed in each year as close Holidays in such Courts and in the Courts respectively subordinate to them, and such list shall be ordinarily published at the commencement of each year in the Official Gazette of the Presidency or place in which each Sudder Court is held.

STAMP DUTIES.

ACT No. LI. OF 1860.

[*Received assent of the G. G. on the 26th December*, 1860.

Repeals Act XL. 1860 s. 1, from 1st January, 1861.

2, 3. Extends time for Act XXXVI. 1860 coming into force as regards foreign bills of Ex.; and (3) directs that this Act be read as part of Act XXXVI. 1860.

An Act further to amend Act XXXVI. of 1860.

Preamble.

Whereas it is expedient further to amend Act XXXVI. of 1860 (*to consolidate and amend the law relating to Stamp Duties*); It is enacted as follows:—

Repeal of Section I. Act XL. of 1860.

I. Section I. Act XL. of 1860 (*to amend Act XXXVI. of* 1860) is hereby repealed from the 1st January 1861.

Extension of time for Act XXXVI. of 1860 to come into force as regards Foreign Bills of Exchange, &c., payable after date or sight.

II. So much of Act XXXVI. of 1860 as imposes duties on Foreign Bills of Exchange drawn out of the British territories in India, shall not come into force until such date as the Governor-General in Council by an order in the Gazette may prescribe. Until such date, all Regulations and Acts or parts thereof which are repealed by Section I. of the said Act XXXVI. of 1860, shall remain in full force as regards such Bills of Exchange as aforesaid.

Construction.

III. This Act shall be read and construed as part of Act XXXVI. of 1860.

PRESIDENCY TOWNS. RAILWAY POLICE REGULATIONS.

ACT No. LII. OF 1860.

[*Received assent of the G. G. on the 26th December*, 1860.

1, 2, 3. Empowers Presidency Police Magistrate to try for offences under Act XVIII. 1854 ss. 27, 28, (2) wherever committed if departure of a material witness be probable and thereby probably indictment in Supreme Court might be ineffectual; and if the witness be within local jurisdiction and (3) makes the Act part of Act XVIII. 1854.

An Act to amend Act XVIII. of 1854 (relating to Railways in India.)

Preamble.

Whereas it is expedient to amend the law relating to offences declared to be punishable under Act XVIII. of 1854 (*relating to Railways in India*) on conviction before a Justice of the Peace for any of the Presidency Towns of Calcutta, Madras, and Bombay; It is enacted as follows:

I. If any person is charged before a Police Magistrate of a

Police Magistrate may in certain cases try offences punishable under Sections XXVII. and XXVIII. Act XVIII. of 1854 with imprisonment.

Presidency Town with committing any offence which under Section XXVII. or Section XXVIII. of Act XVIII. of 1854 is punishable on conviction with imprisonment, and if such Police Magistrate shall deem it probable that, in consequence of the probable departure of any material witness from the local limits of the jurisdiction of such Magistrate, the prosecution of such offender by indictment in the Supreme Court will be ineffectual, such Magistrate may try the offender, and on conviction may award a sentence not exceeding six months' imprisonment with or without hard labor.

Extent of jurisdiction.

II. The jurisdiction given to Police Magistrates under the foregoing Section may be exercised whether the offence shall be charged to have been committed within the local limits of the jurisdiction of such Magistrates or not, and any person hereby made punishable by a Police Magistrate shall be punishable upon summary conviction, but such jurisdiction shall only be exercised if the witnesses necessary for the prosecution of the offender are to be found within the local limits of the jurisdiction of the Police Magistrate before whom the offender is charged.

Construction.

III. This Act shall be taken to be, and shall be read as part of Act XVIII. of 1854.

BENGAL RENT.

ACT No. LIII. OF 1860.

[*Received assent of the G. G. on the 26th December*, 1860.

Recites expediency of amending Act X. 1859 s. 30; and (1) gives extended period for bringing Suits under that section but not to extend beyond 31st July 1861; and (2) authorizes revival of suit which had been dismissed as out of trial under that section.

An Act to amend Act X. of 1859.

Preamble.

Whereas it is expedient to amend Act X. of 1859 (*to amend the law relating to the recovery of Rent in the Presidency of Fort William in Bengal*); It is enacted as follows:—

I. The following proviso shall be read as part of Section

Time for commencement of suits of which the cause of action accrued before 1st August, 1859.

XXX. Act X. of 1859:—"If in any suit to which this Section is applicable, the cause of action shall have accrued before the first day of August 1859, such suit shall be instituted within two years from that day, or, reckoning from the passing of this Act, within a period equal to the period of limitation for the institution of the suit that remained unexpired at the date of the passing of Act X. of 1859. Provided that no such period shall extend beyond the 31st July 1861.

Revival of certain suits and appeals dismissed or rejected.

II. Any suit or appeal instituted under Act X. of 1859, which may have been dismissed or rejected on the ground that the suit had not been commenced within the period prescribed in Section XXX. of the said Act, may be revived if the order of dismissal or rejection shall be contrary to the provisions of the foregoing Section, and a petition for the revival of the same shall be presented within four months of the passing of this Act to the Collector or Court by which such suit or appeal may have been dismissed or rejected. The petition may be written on the Stamp required for petitions presented to such Collector or Court.

INDEX.

The references to the Penal Code are distinct and indicated by the words "(Penal Code)." Most of the references to the Income Tax Act are in a similar form.

ABATEMENT.—(*Income Tax*).—(*See* DOUBLE ASSESSMENTS).
False claim to, how punishable, 193, 194.
ABDUCTION.—(*Penal Code*).
definition of, 382.
as to, of child under 10, to steal from child, punishment of, 384; when for purpose of murder, *ib*; or of wrongful confinement, *ib.*; or of subjecting to hurt or slavery, 383; and for aiding by concealing, 383.
ABET.—(*Penal Code*).
defined, 292.
ABETMENT.—(*Penal Code*).
chapter on, 291.
definitions and examples of, 292.
abetment of, an offence, 294.
as to punishment of, if offence abetted is committed, 294; and if act done varies from act abetted, *ib.*
when it may give rise to two punishments, 295.
abettor before the fact when punishable as principal, 296.
scale for punishment of, according to character of principal offence, *ib. et seq.*
punishment of, in case of offence to be committed by numbers, 298.
abetment by concealing design, &c. to commit offence, *ib. et seq.*
by public servant, *ib.*
of insurrection, what offence, 301.
ABETTOR.—(*Penal Code*).—(*See* ABETMENT)
ABKAREE REVENUE.—(*See* SPIRITS).
ACCESSORIES.—(*Income Tax*).
Provision respecting, 193.
ACCOUNTANTS GENERAL.—(*Income Tax*).
to be ex-officio income tax assessor, 125; for assessing Government Securities, *ib.*
ACT, an.—(*Penal Code*).
defined, 270.
ACTS OF INDEMNITY.
for Collector of Customs in N. W. Ps. 1.
offences during the mutinies, 208.
ACTS OF THE LEGISLATIVE COUNCIL, *amended, extended, supplemented, repealed.*
1836, 12, (Furruckabad) repealed, 36.
" 22, (Calcutta Canals) amended and extended, 38.
1839, 14, (Emigration) repealed as respects St. Vincents, 35; and as respects Natal, 207; as respects St. Kitts, 253, and as respects French Colonies, 445.
1841, 19, (Curators) modified, 79.
" 20, (Successions) repealed, 75.
1842, 8, (ditto,) partially repealed, *ib.*
15, (Emigration) extended 3, and schedule of, partially repealed, 473.
1843 14, s. 2 (Customs N. W. Salt) partially repealed, 1.
21, (Emigrant ships), amended, 473.

ACTS OF THE LEGISLATIVE COUNCIL, (*Continued*).
1844, 21, (Emigration) extended, 3, and schedule of, partially repealed, 473.
1347, 8, (Emigrant ships) amended, 473.
„ 19, (Native army) amended, 9.
1851, 10, (Successions) repealed, 75.
1852, 4, (Emigrant Ships) amended, 473.
1854, 8, (Emigrant Ships) repealed, *ib.*
„ 18, (Electric Telegraphs) repealed, 17.
„ 34, ss. 27, 28, (Police Magistrates) amended, 460.
1855, 8, (Administrator General) amended, 72.
„ 20, (Madras Boundary Marks) repealed 82.
„ 22, (Madras Port Dues) extended, 72, and s. 49 amended, 43.
„ 31, (Emigration) extended, 3, 35, 253, and schedule of, partially repealed, 473
1856, 13, ss. 13, 15, 32, 33, 34, 38, 39, 40, 43, 50, 51, 52, 55, 59, 67, 75, 76, 78, 81, 82, 99, 105, 112, 115 (Police Regulation of Presidency Towns) repealed, 459.
1856, 14, s. 121 (Presidency Towns,) Municipal, repealed, 38
„ 21, (Abkaree Revenue) s. 9 repealed, and ss. 7 and 15, partially repealed, 67.
1857, 3, (Cattle Trespass) amended, 8.
„ 19, s. 1 (Limited Liability) partially repealed, 11.
1858, 5, (Escaped Convicts) repealed, 40.
„ 7, (Madras Port Dues) amended, 43.
„ 21, (Emigration) extended, 3.
„ 30, (Nabob of Carnatic) explained, 245.
1859, 7, (Customs Duties) altered, 25.
„ 8, (Civil Procedure) extended, 23, 259;
s. 385 modified. 7, s; 332 repealed, 6; s. 215, repealed, 7; (as to appeals), amended, 259.
„ 10, s. 37, (Stamp Duties) repealed, 214.
„ 16, (Nabob of Carnatic) repealed, 215.
„ 21, (Governor General) continued, 43.
„ 23, (Customs Duties) altered, 25.
1860, 12, 33, 41, (Emigrant Ships) amended.
„ 36, (Stamp Duties) explained 250; and ss. 21, 22, repealed, 252, and s. 36 amended, *ib.*
„ 40, s. 1 (Stamp Duties) repealed, 475.

ACTS OF PARLIAMENT.
58 Geo. 3 c. 84 (Scotch marriage law) repealed, 70.
18 and 19 V c. 50 s. 99 (Passengers Act) applied, 2.

ADMINISTRATOR GENERAL.—(*See* DEBTS &c. CERTIFICATES &c. DISPUTED SUCCESSIONS).
may administer to estate of officers &c, not exceeding 500 Rs., 72, or creditor may on his default, 73.
Person may be appointed to act as in absence of, on giving same security &c. *ib*

ADMINISTRATORS GENERAL.—(*Income Tax*).
Chargeable to Income Tax, 140; and to do all acts required by law, *ib.*

ADULTERY.—(*Penal Code*).
definition of, 427.
as to punishment of, *ib.*
enticing married woman away with intent to commit, *ib. et seq*

AFFRAY.—(*Penal Code*).
what is an, and its punishment, 31.

AFFIDAVITS—(*Stamp Act*).
not to be received without Stamp, 226.

AGENT.—(*Income Tax*).
when and how chargeable 138; and responsible to what extent, *ib.* and when not chargeable, *ib et seq.*

AGENT.—(*Penal Code*).
as to criminal breach of trust by, 398.

AGENT FOR EMIGRATION.—(*See* EMIGRATION).
AID.—(*Penal Code*).
giving, when an abetment, 292.
AIR.—(*Penal Code*).—(*See* ATMOSPHERE).
ALLY, (ASIATIC OF THE QUEEN).—(*Penal Code*).
as to waging war against, 301.
ALTERATION.—(*Penal Code*).
in document, when forgery, 415.
AMERICANS.—(*Penal Code*).
to be sentenced to penal servitude instead of transportation, 275.
ANIMAL.—(*Penal Code*).—(*See* PUBLIC HEALTH, SAFETY, &c).
word explained, 272.
as to want of precaution against injury from, 358.
mischief to, 405.
ANNOYANCE, CRIMINAL.—(*Penal Code*).
as to, by person in state of intoxication, 433.
ANNUITIES, PENSIONS AND SALARIES.—(*Income Tax*).
regulations respecting assessment of, 162.
APPEALS.—(*See* SPECIAL APPEAL).
Sudder Courts, how to be constituted on, 7, not to lie from Small Cause Courts, 259.
APPLICATION OF DUTIES.—(*Income Tax*).
regulations respecting, 188.
APPREHENSION.—(*Penal Code*).
as to not giving assistance for, of offender, 323.
preventing it, by harbouring offender, 335 *et seq.*
public officer omitting to apprehend, 339; in case of person under sentence *ib. et seq*,
person resisting his own, 340; or another person's, 341.
ARBITRATOR.—(*Penal Code*).
comprised in term, public officer, 267.
ARBITRATION ON BOUNDARY MARKS.—(*Madras*).
regulations respecting, 85 *et seq.*
ARBITRATORS.—(*Madras*).—(*See* BOUNDARY MARKS AND DISPUTES).
as to appointment of arbitrators to settle Boundary Disputes, 85, and how they are to proceed, 86.
award of, may be modified or corrected, 87; as to setting aside, *ib.*
ARMS AND AMMUNITION.—(*See* SULPHUR).
Acts relating to, 91, 93.
manufacture of cannon, &c. prohibited, 95, *et seq.* and possession of, except under license, 96.
license to possess cannon, &c., to be in writing, *ib.*
sale of certain kinds of, except under license prohibited, *ib. et seq*
license to deal in by whom grantable, 97, and as to form, *ib.* and duration of, *ib.*
licensed dealers in, to put up board in shop, *ib.* and keep a book of stock and sales, *ib. et seq.*
purchase of, from unlicensed person an offence, *ib.*
Magistrates may enter premises of licensed dealers in, 98.
importation of, except under license, prohibited, 99, and breach of prohibition an offence, *ib.*
may be imported in reasonable quantities for private use, *ib.*
persons carrying arms without license may be disarmed, 101, unless they are officers, &c., volunteers &c., licensed or other privileged person, *ib. et seq.*
general search may be made for, when, 103.
license to carry, how obtainable, 102 and form of, *ib.*
ARMY AND NAVY.—(*Penal Code*).
chapter on, 303 *et seq.*
not to apply to persons subject to articles of war, 305.
as to abetting commission of mutiny, 304 and as to punishment of, *ib. et seq*; and if mutiny be committed, 304.

ARMY AND NAVY, (*Continued*).
abetting assault on superior officer, 304; if assault be committed, *ib.*
abetting desertion, *ib.*
harbouring deserter, *ib.*
having deserter on board merchant ship, by negligence, 305.
abetting insubordination, *ib.*
false personation by wearing military garb, &c. *ib.*
ARTICLES OF WAR.—(*Penal Code*).
persons subject to, excepted from the Penal Code, 262
ARTICLES OF WAR FOR NATIVE ARMY.
Additions to, 78th and 112th, 10.
ARTIFICERS.—(*Penal Code*).
as to breach of contract by, 425.
ASSEMBLY.—(*Penal Code*).—*See* UNLAWFUL ASSEMBLY.
ASSAULT.—(*Penal Code*).
definition of, 380.
mere words do not amount to an, *ib.*; but words and gestures may, *ib.*
as to punishment of, *ib.*
on G. G., G., L. G., or M. of Council, 301.
abetment of, by soldier or sailor, and its punishment, 304; and what, if assault be committed, *ib.*
on public servant when suppressing riot, 309; or in discharge of any duty, 381.
on woman to outrage her modesty, *ib.*
on any person to dishonor him, *ib.*
in attempt to commit theft from the person, *ib.*; or to confine a person, *ib.*
made on provocation, *ib.*
ASSESSOR.—(*Penal Code*).
comprised in term public servant, 267.
ASSESSMENT OF INCOME TAX.
as to mode of, 128.
districts for, *ib.*
notices and forms for returns, *ib.*
annual notice to all persons liable, *ib.*
making the returns for, 129.
on persons chargeable on account of others, *ib.*
when several are jointly liable, *ib.*
on lodgers, *ib.*
revision of, 133.
frivolous objections to, *ib.*
when final, 134.
as to, in Presidency Town, 134.
professional agents not to be heard on, 135.
as to assessment of composition, 136.
trustees, guardians and other representatives how brought under, 138.
as to relief from double assessment, 139.
how to be made on companies, 141.
ASSESSORS.—(*Income Tax*).
two may be associated with Collector, 124.
to have access to Collectorate records, 131.
duty of, on receiving returns, *ib.*
as to persons not making returns, *ib.*
to send abstract of returns to Collector, &c. *ib.*
ASSOCIATION.—(*Penal Code*).
comprised in term person, 265.
ATMOSPHERE.—(*Penal Code*).
as to vitiating the, 356.
ATTEMPT.—(*Penal Code*).
to wage war against the Queen, 300.
to restrain or overawe G. G., G., L. G., or M of Council respectively from exercising his powers, *ib.*
to rescue prisoner of war, 303.

ATTEMPTS TO COMMIT OFFENCES.—(*Penal Code*).
chapter on, 435 *et seq.*
act done, essential to, *ib.*
as to punishment of, where no specific punishment is provided by Code, *ib.*
ATTORNEY.—(*Penal Code*).
as to criminal breach of trust by, 399.
AUDITORS.—(*Income Tax*).—(*See* CIVIL AUDITORS.—MILITARY AUDITORS, PENSION PAYMASTERS.)
AUTHORITY.—(*Penal Code*).
as to forgery of, in regard to valuable security, receipt or acquittance, 418.
BANKER.—(*Penal Code*).
as to criminal breach of trust by, 399.
BANKING COMPANIES.
may register for limited liability, 12.
when registered, how to be wound up, 15.
BANKRUPTCY AND INSOLVENCY.—(*Income Tax*).
effect of, on composition, 137.
BAPTISM.—(*Penal Code*).
as to forgery of register of, 418.
BASSEIN.
Act for levy of Port Dues at, 71.
BENEFIT.—(*Penal Code*).
an excuse for injury to person when, and when not, 284.
BIGAMY.—(*Penal Code*) (*See* MARRIAGE).
as to punishment of, 426; and when committed with dishonest or fraudulent intention, 427.
when existing marriage is concealed from other party, *ib.*
case of absence for seven years of one of the married parties, *ib.*
BIRTH.—(*Penal Code*).
as to forgery of register of, 427.
concealment of, of child, 418.
BOUNDARY MARKS AND DISPUTES.—(*Madras*).
Act for settlement of, 82; and former Act respecting, repealed, *ib.*
Collector or Revenue Settlement Officer may fix, 82; and may call on owners and occupiers to register titles, 83; and to set up boundary marks, *ib. et seq*
repair, in default of owners and occupiers, &c., 84
expense of, how to be defrayed, *ib.*
wilful injury to, how punishable, 85.
disputes respecting, may be referred to arbitrators, 85.
as to appointment of arbitrators for settlement of, *ib.*
fines under Act to be carried to credit of Government, 89
BRITISH CONSULAR AGENTS.—(*See* EMIGRATION).
to be protectors of emigrants in French colonies, 445.
BREAKING OPEN OR UNFASTENING CLOSED RECEPTACLE.—(*Penal Code*).
as to punishment of, 413.
BRIDGES.—(*Penal Code*).
as to mischief to, 406.
BRITISH INDIA.—(*Penal Code*).
meaning of, explained, 265.
BRIBE.—(*Penal Code*).—(*See* GRATIFICATION).
BROKER.—(*Penal Code*).
as to criminal breach of trust by, 399.
BUFFALO.—(*Penal Code*).
as to mischief to, 406.
BUILDING.—(*Penal Code*).—(*See* PUBLIC HEALTH, SAFETY, &c).
as to negligence in repair or pulling down of, 358.
BUILDINGS, USED AS HUMAN DWELLING OR PLACE OF WORSHIP.—(*Penal Code*).
as to mischief to, by fire, 407.

BULL.—(*Penal Code*).
as to mischief to, 406.
BUOY.—(*Penal Code*).
as to exhibiting false, 356.
BURIAL.—(*Penal Code*).
as to forgery of register of, 418.
BURIAL PLACE.—(*Penal Code*).
as to trespassing on, 360.
BYE-LAWS.—(*See* MUNICIPAL COMMISSIONERS).
CALCUTTA.—(*See* MUNICIPAL COMMISSIONERS).
CALCUTTA CANAL.
new cut, to be liable to tolls, 38.
CALENDAR.—(*Penal Code*).
words, year and month, to be understood according to, 273.
CALPEE.—(*See* KOONCH AND CULPEE).
CAMEL.—(*Penal Code*).
as to mischief to, 406.
CANAL COMPANIES.—(*Income Tax*).
assessable, 150.
CAPACITY.—(*Penal Code*).
as to using false measure of, 352.
CARE AND ATTENTION.—(*Penal Code*).
good faith not to be imputed, if act done without, 273.
CARNAL INTERCOURSE.—(*Penal Code*).—(*See* UNNATURAL OFFENCES.)
CARNATIC, NABOB OF.
Act relating to, repealed, 245.
Act to explain, Act 30, 1858, *ib.*
CARRIAGE OF PASSENGERS BY SEA.
Act relating to, 2.
CARRIER.—(*Penal Code*). (*See* SERVICE, CONTRACTS OF).
as to criminal breach of trust by, 398.
CATTLE TRESPASS.
Act to amend Act relating to, 8.
surplus fines for, may be applied to roads, &c. 8.
as to jurisdiction of Heads of Police, &c. in Madras, to try for, 9.
CERTIFICATE OF TITLE TO STATE OF DECEASED NATIVES.
Necessary for collection of debts, 75.
How to be obtained, *ib. et seq.*
conclusive of title, as against debtor, 70.
grantee of, to give security, *ib.*
may be suspended on appeal, *ib.*
to avail throughout the presidency, *ib.*
not to include Government Stock or shares in joint stock, unless expressed, 77.
payment under, to be valid though certificate be amended, 78.
not valid after probate or letters of administration, *ib.*
may be granted by British representative in native state, 80; and be of what effect, *ib.*
CERTIFICATE REQUIRED BY LAW.—(*Penal Code*).
as to issue or signing of false one, 331 or using, *ib.*; and as to punishment for, *ib.*
CHEATING, AND CHEATING BY PERSONATION.—(*Penal Code*).
sections on, 400, *et seq.*
definitions of, *ib.*
deception essential to, 400.
as to punishment of, 402, and if delivery of property, or dishonest dealing with valuable security, be thereby induced, 402.
CHILD.—(*Penal Code*). (*See* UNBORN CHILD.)
as to causing death of, at birth, 368.
exposure and abandonment of, by parent or guardian, 369.
secret burial and concealment of birth of, *ib.*

CHITTAGONG.
Act to remove certain districts of, from the Zillah, 63.
CIVIL AUDITORS.—(*Income Tax*).
to be ex-officio assessors, 126; for assessing civil salaries, *ib.*
CLERK.—(*Penal Code*).
as to criminal breach of trust by, 398.
COAL COMPANIES.—(*Income Tax*).
assessable, 150.
CODE.—(*Penal Code*). (*See* PENAL CODE.)
CIVIL PROCEDURE.
Act to amend Act 10, 1859, 476, time for limitation, 477.
COFFEE PLANTERS —(*Income Tax.*)
assessable, 150.
CO-HABITATION.—(*Penal Code*).
obtained by deceit of specified kind, 426.
COIN.—(*Penal Code*). (*See* MINT)
offences relating to, 342 *et seq.*
definition of, 344
as to counterfeiting, or taking part in process of counterfeiting, *ib* ; by altering genuine coin, *ib.*
making or selling die or instrument for counterfeiting of, 345, or having instrument or materials for, 345.
abetting the counterfeiting of, *ib.*
importing or exporting counterfeit, 346.
passing counterfeit, whether Foreign or the Queen's, *ib. et seq.*
keeping counterfeit coin with fraudulent intent, 347.
diminishing weight or altering composition of, *ib. et seq.*
altering appearance of, 342, *et seq.*
COIN AND GOVERNMENT STAMPS, OFFENCES RELATING TO.—(*Penal Code*) (*See* COIN, *See* STAMPS.)
chapter on, 342 *et seq.*
COLLECTOR —(*Penal Code.*)
included in term Judge, when, 266.
COLLECTION OF INCOME TAX.
Regulations respecting, 121.
COLLECTOR OF LAND REVENUE.—(*Income Tax*)
to have management of Income Tax, 124; subject to the Superior Revenue authorities, *ib.*
may give his duties under Income Tax Act in deputation, subject to his own control, 125.
appoint ministerial officers for Income Tax, *ib.*
perform functions of Income Tax Assessors, *ib.*
COMMISSIONERS.—(*See* INCOME TAX.)
COMMISSIONERS OF ZILLAHS.—(*Income Tax*).
may exercise functions of Assessors, 125.
COMMISSION OF ENQUIRY RESPECTING INDIGO.
L. G. of B to appoint, 32.
COMMITTEE OF INFANT &c.—(*Income Tax*).
what kind of, chargeable, 138; and responsible to what extent, *ib.*
COMMON NUISANCE —(*Penal Code*) (*See* PUBLIC HEALTH, SAFETY, CONVENIENCE, DECENCY AND MORALS.)
what is a common or public nuisance, 354.
not excused for incidental convenience, *ib.*
as to comon nuisances not specifically provided against, 358.
continuing or repeating, *ib.*
COMMUTATION OF SENTENCE. (*Penal Code*)
may be without consent of prisoner, in case of death sentence, 247 or transportation for life. *ib.*
COMPANIES, SOCIETIES AND BODIES.—(*Income Tax*).
chargeable, 140; and registered officer of, or manager to make returns &c., 141.
who responsible for payment of tax by, *ib.*

COMPANIES, SOCIETIES AND BODIES, (*Continued*).
profits of, how to be assessed, 141.
offices and employments in, assessable, 144; and when and how, *ib. et seq.*
COMPANY.—(*Penal Code*).
comprised in term person, 265.
COMPOSITIONS FOR INCOME TAX.
may be made, 135; with what officer, 137, and for what time, 135; and on an annually increasing ratio, 136.
how to be assessed, 136.
contract for, must be signed, *ib.*; and as to consequences of neglect to sign, *ib.*
to be extinguished by death, after what time, 137; and by bankruptcy, *ib.*; and to be void if obtained by fraud, *ib.*
offences in regard to, 194.
COMPOUNDING OFFENCES.—(*Penal Code*) (*See* JUSTICE, OFFENCES AGAINST).
COMPULSION OF THREATS.—(*Penal Code*).
not to excuse murder or offence against the State, an excuse when and when not, 286.
CONFESSION —(*Penal Code*).
as to extorting, by hurt, 371; or grievous hurt, *ib.*
CONSENT OF PARTIES INJURED.—(*Penal Code*).
defined and explained, an excuse when, and when not, 284.
CONSULAR AGENTS.—(*See* CONVENTION.)
CONTEMPTS OF LAWFUL AUTHORITY OF PUBLIC SERVANTS.—(*Penal Code*).
chapter on, 317 *et seq.*
by absconding to avoid service of process, 318.
preventing service of process, *ib.*
non-attendance in obedience to process, *ib. et seq.*
non-production of document, 319.
failure when legally obliged to give notice or information to public servant, *ib.*
giving false information when legally bound to give true, 320.
refusing to take an oath, *ib.*
answer, when legally obliged, 321.
sign any statement when legally obliged, *ib.*
making false statement on oath, *ib.*
maliciously giving false information to public servant, *ib.*
resistance to execution of process against property, 322.
obstructing sale made under authority of law, *ib.*
public servant in execution of his duty, *ib.*
not assisting public servant when legally bound to do so, *ib. et seq.*
disobedience to legal order, 323.
threat of injury to a public servant, 324.
deter person from seeking legal protection, *ib.*
CONTRACTS.—(*Penal Code*) (*See* SERVICE &c., ARTIFICERS WORKSMAN.)
CONVENTION, ARTICLES OF.
between Great Britain and France respecting emigration, 438.
CONVERSION OF PROPERTY.—(*Penal Code*).—(*See* MIS-APPROPRIATION.)
CONVEYANCES.—(*Stamp Act*).
to state truly the consideration, 226.
CONVICT.—(*Penal Code*) (*See* RETURNED CONVICT; JUSTICE, OFFENCES AGAINST.)
CONVICTION, PREVIOUS.—(*Penal Code*).
as to effect of, on subsequent conviction, 279.
CONVICTS.—(*See* TRANSPORTATION).—*See* ESCAPED CONVICTS).
Act relating to transportation of, 210.
under sentence of transportation, to be intermediately put to hard labour, *ib.*
CORPSE.—(*Penal Code*).
as to offering indignity to, 360.
COSIDARERS.—(*See* INCOME TAX, LANDS, &c.).

COUNCIL.—(*Penal Code*).—(*See* MEMBERS OF COUNCIL).
COUNTERFEIT, TO.—(*Penal Code*).
defined, 269.
COUNTERFEIT STAMPS.
offence of making or altering, 226, and how punishable, *ib.*; and where triable, 227.
COURT MARTIAL.
commanding officer trying native soldiers summarily, to be deemed a, 10.
regulations for, on summary trials, *ib.*
COURT OF JUSTICE.—(*Penal Code*).
term explained, 266.
COURT RECEIVER OR MANAGER.—(*Income Tax*).
chargeable, 140.
COURT OF WARDS.—(*Income Tax*).
chargeable, 140.
COVENANTED SERVANT.—(*Penal Code*).
comprised in term public servant, 266.
COW.—(*Penal Code*).
as to mischief to, 406.
CRIMINAL FORCE.—(*Penal Code*).
to use, meaning of, defined, 378 *et seq.*
not essential to an assault, 380.
when not excused by provocation, *ib.*
as to punishment for, *ib.*; if with intent to outrage modesty of a woman, 381, or to dishonor a person, *ib.*; or to commit theft, *ib*; or to confine a person, *ib.*; or on provocation not sufficient to excuse, 381 *et seq.*
CRIMINAL INTIMIDATION, INSULT, AND ANNOYANCE.—(*Penal Code*).—(*See* INTIMIDATION, INSULT, ANNOYANCE).
chapter on, 432.
CRIMINAL MISAPPROPRIATION OF PROPERTY.—(*Penal Code*).—(*See* MISAPPROPRIATION, &c).
section on, 395.
CRIMINAL TRESPASS.—(*Penal Code*).
section on, 408 *et seq.*
CURATORS.—(*Income Tax*).
chargeable, 138; and responsible to what extent, *ib.*
CURATORS (UNDER ACT 19, 1841).
their powers limited, 79.
CUSTOMS DUTIES ON IMPORTS AND EXPORTS.
Act to alter, 25.
disputes as to construction of Acts relating to, to be decided by Collector, subject to approval of the Government of India, 26
to attach on goods in Bond as on new importations, *ib.*
CUTTING.—(*Penal Code*).
as to hurt, by, and punishment for, 371.
DACOITY.—(*Penal Code*).
definition of, 393.
as to punishment of, 393; or if aggravated by murder, 394; or by grievous hurt, *ib.*; or by use of deadly weapon, *ib.*
attempts to commit, *ib*; and preparations to commit, 394.
habitual association for commission of, *ib.*
assemblies of five for purpose of, 395.
DEATH.—(*Penal Code*).
meaning of the word, 272.
punishment of, may be commuted by Government for any other punishment, 274.
DEATH, BANKRUPTCY AND INSOLVENCY.—(*Income Tax*).
effect of, on composition for Income Tax, 137.
DEBT OR DEMAND.—(*Penal Code*).
as to disposition of, in fraud of creditors, 403
DEBTS TO DECEASED HINDOOS AND MAHOMEDANS.—(*See* CERTIFICATE OF TITLE).
certificate of representation necessary for person claiming, 75.

DEBTS TO DECEASED HINDOOS, &c.—(*Continued.*)
certificate for collection of, how to be obtained, *ib. et seq.*; and when obtained conclusive title as against debtor, 70.
DECEASED PERSON.—(*Penal Code*).
as to dishonest mis-appropriation of property in possession of, 397.
DECENCY, PUBLIC.—(*Penal Code*).
as to offence against, 354, 358.
DECLARATION RECEIVABLE IN EVIDENCE, &c.—(*Penal Code*).
as to making, or subscribing, or corruptly using false one, 330; and punishment for, *ib*; notwithstanding informality, 331.
DECREE OR ORDER.—(*Penal Code*).
as to fraudulently suffering a, for debt not due, or more than due, 334; and as to obtaining like decree, 334.
DEDUCTION.—(*Income Tax*).
not to be allowed, unless expressly authorized, 146.
may be surcharged for, if unauthorized, 147.
may be made, in case of loss of rent through season, 148, and to occupiers for same causes, 149.
in case of loss of rent through insolvency or fraud of tenant, *ib.*
what may be made in respect of trades, 151; and what not, *ib.*
profits from property out of India, 158.
overcharge, 171 *et seq.*
to be made for repairs of houses, 174.
life insurance, *ib.*
DEEDS.—(*Penal Code*).—*See* FRAUDULENT DEEDS.
DEFAMATION.—(*Penal Code*).
chapter on, 428.
definition of, *ib.*; explanations of, *ib.*; exceptions from rule, and what is not, 428.
as to punishment of, 432.
by prints and engravings, *ib.*
selling defamatory prints and engravings, *ib*
DEFENCE.—(*Penal Code*).—*See* RIGHT OF PRIVATE DEFENCE.
DEFINITIONS AND SIGNIFICATIONS OF WORDS AND TERMS.—(*Penal Code*).—*See* WORDS AND TERMS INTERPRETED.
DEGREES.—(*See* UNIVERSITIES).
DEPREDATION.—(*Penal Code*).
as to, on territories of friendly States, 302; and receiving property thereby acquired, *ib.*
DEPUTY COLLECTOR.—(*Income Tax*).
may be assessors of Income Tax, 124; and have power of Collectors in certain cases, 125.
DESERTER.—(*Penal Code*).
as to harbouring, 324 *et seq.* and abetment of desertion, 304.
DHIRNA.—(*Penal Code*).
DISARMING OF PROVINCES.—(*See* ARMS AND AMMUNITION.)
may be ordered by G. G. in C., and by local Governments, 102 *et seq.*
DISEASE.—(*Penal Code*) (*See* INFECTIOUS DISEASE, &c.)
DISFIGURATION OF THE PERSON.—(*Penal Code*).
when amounting to grievous hurt, 370 *et seq.*
DISHONESTY.—(*Penal Code*).
meaning of, defined, 268.
DISLOCATION OF BONE OR TOOTH.—(*Penal Code*).
comprised in term grievous hurt, 370.
DISPENSARY.—(*Penal Code*).
as to issue of adulterated drugs from, 355.
wrong medicine from, 356.
DISPOSITIONS OF PROPERTY.—(*Penal Code*)—(*See* FRAUDULENT DISPOSITION OF PROPERTY.)
DISPUTED SUCCESSIONS.—(*See* SUCCESSIONS).

DIVISIONS AND DISTRICTS.—(*Income Tax*).
existing ones to be added for purposes of Income Tax, 122.
different classes chargeable in what, 158 *et seq.*
DOCKING COMPANIES.—(*Income Tax*).
Assessable, 150.
DOCUMENTS, TRADE OR PROPERTY MARKS.—(*Penal Code*).—(*See* TRADE MARKS, PROPERTY MARKS.
chapter on, 414 *et seq.*
DOCUMENTS.—(*Penal Code*).—(*See* FORGERY.)
what are denoted by the term, 269.
as to offences relating to, 414 *et seq.*
forgery of, defined, 415.
false, definition of, *ib.*
making a false, definition of, *ib.*
as to punishment of forgery of, 417.
specification of different kinds of, 418.
forged document defined, *ib.* and as to possession of, 419.
as to punishment for using forged, 419.
seals, plates, and other instruments used for forgery, *ib.*
DOUBLE ASSESSMENTS.—(*Income Tax*).
relief from, how to be obtained, 175 *et seq.*
DRAINAGE.—(*Penal Code*).
as to mischief to, 407.
DRIVING, FURIOUS OR DANGEROUS.—(*Penal Code*).—(*See* PUBLIC HEALTH, SAFETY, &c).
as to punishment for, 356.
DRUGS AND MEDICINE.—(*Penal Code*)(*See* DISPENSARY.)
as to adulteration of, and sale of noxious and spurious, 355, 356.
DRUNKEN PERSON.—(*Penal Code*).—(*See* INTOXICATION.)
as to misconduct of, 435
DWELLING HOUSE.—(*Penal Code*).
as to mischief to, 407.
EAR.—(*Penal Code*).
what injury to, is grievous hurt, 370.
ELECTRIC TELEGRAPH.
Act for regulating the establishment and management of, 17.
exclusive privilege of establishing, to belong to G. G. in C. 17; who may establish rules for conduct of, 18.
government may require establishment of, on railway, *ib.*
government not responsible for inaccuracy of message, 18.
(*Offences in regard to.*)
as to intruding into signal room, *ib.*
cutting the line, 19.
omitting to transmit message, *ib.*
offering bribe to telegraph servant, *ib.*
drunkenness and other misconduct of telegraph servant, *ib.*
sending messages without payment, *ib.*; and sending fabricated messages, 20.
Fines in regard to, how recoverable, *ib.*
ELEPHANT.—(*Penal Code*).
as to mischief to, 406.
EMASCULATION.—(*Penal Code*).
comprised in term grievous hurt, 370.
EMIGRANT SHIPS TO BRITISH COLONIES.
Act relating to, 473.
may take less water if supplied with Normandy's apparatus, 473.
EMIGRANT SHIPS TO FRENCH COLONIES.
to be licensed, 446; and regulations respecting license, *ib. et seq.*
time of, for leaving India, 449.
to carry surgeon, *ib.*
regulations respecting space for emigrants, 450.
to furnish provisions to emigrants up to when, 451.

EMIGRANT SHIPS TO FRENCH COLONIES.—(*Continued*).
to be surveyed before port clearance, 451, and not to take on board after port-clearance, 452.
regulations respecting lists of Emigrants, 452.
power of customs officers in regard to, 453.
papers of, to be countersigned by customs officer, *ib.*
EMIGRATION TO ST. VINCENT, NATAL, ST. KITTS, FRENCH COLONIES.
(*St. Vincent*).
Act relating to, 35.
Act 31, 1855, extended to, *ib.*
(*Natal*).
Act relating to, 207; and when to take effect, 208.
prohibition of emigration to, repealed, 207.
St. Kitts.—
Act relating to, 250.
prohibition of emigration, repealed, *ib.*
emigration acts extended to, *ib.*; to take effect from when, *ib.*
French Colonies.—
Convention between H. M. and French Government relating to, 438, when to take effect, 456.
French Government may nominate agents for, 445; to be subject to regulations, *ib.*
contracts for, to have what effect, 446; and contain what terms, 446.
numerical proportion between male and female emigrants, 455.
ENFACED GOVERNMENT PROMISSORY NOTES.—(*Income Tax*).
regulations respecting, 161.
ERASURE OR CANCELLATION ON USED STAMPS.—(*Penal Code*).
as to punishment for, 351.
ESCAPE.—(*Penal Code*).—(*See* JUSTICE, OFFENCES AGAINST. STATE PRISONER. RETURNED CONVICT.)
ESCAPED CONVICTS OF CERTAIN KINDS.
Sentence on, in certain cases, made valid, 41.
time for voluntary surrender of, may be retrospectively declared, 40.
not surrendering in time may be transported, *ib.*
harbouring of, how punishable, 41.
transportable for residue of term, 42.
EUROPEAN BRITISH SUBJECT.—
as to trial of, for transmitting or causing false telegraph messages, 290; and for offences punishable under electric telegraph Act only by fine, *ib.*
how to be prosecuted under Arms Act, 207.
EUROPEANS AND AMERICANS.—(*Penal Code*).
to be sentenced to penal servitude instead of transportation, 275.
EVIDENCE.—(*Penal Code*).—(*See* JUSTICE, OFFENCES AGAINST.)
as to suppression of, to screen offender, 331; and destruction of documentary, 332.
EXCEPTIONS.—(*Penal Code*).—(*See* GENERAL EXCEPTIONS.)
EXECUTION.—(*Penal Code*).—(*See* JUSTICE, OFFENCES AGAINST.)
as to fraudulent defeat of process of, 233 *et seq.*
EXECUTIVE GOVERNMENT.—(*Penal Code*).
comprised in term Government, 266.
EXEMPTIONS FROM INCOME TAX.
regulations respecting, 170.
incomes under 200 rupees a year, 170.
to be proved, 171.
as to claim of, by person out of India, 172.
representative parties, 173.
profits made for government, not chargeable, *ib.*
of military pay under Capt.'s, *ib.*; and of naval pay not above Lieut.'s, *ib.*
may be granted to charitable and religious foundations, 174.
as to false claim to, 194.
EX-OFFICIO AND SPECIAL ASSESSORS.—(*Income Tax*).—
their powers, 127.

EXPECTING TO BE PUBLIC SERVANT.—(*Penal Code*).
term explained, 313.
EXPLANATIONS.—(*Penal Code*).—(*See* WORDS AND TERMS INTERPRETED.)
EXPLOSIVE SUBSTANCE.—(*Penal Code*).
as to negligent conduct in regard to, 357.
hurt to the person by, 369; and as to grievous hurt by, *ib*
mischief by, to amount of 100 Rs., 405; or with intent to destroy place of worship or dwelling houses, *ib.*; or to make specified vessel unsafe, and the punishment, *ib. et seq.*
EXTORTION.—(*Penal Code*).
definition of, 390.
when it is robbery, 392.
as to punishment of, 390; or if aggravated by occasioning fear of injury, 391; or fear of death or grievous hurt, 391.
as to attempts at, by means of some fear, *ib.*
EYE, SIGHT OF.—(*Penal Code*).
what injury to, amounts to grievous hurt, 370.
FABRICATION OF FALSE EVIDENCE.—(*Penal Code*).—(*See* JUSTICE, OFFENCES AGAINST).
term explained, 329.
FACTOR.—(*Penal Code*).
as to criminal breach of trust by, 398.
FAITH —(*Penal Code*).—(*See* GOOD FAITH).
FACTOR.—(*Income Tax*).
when and how chargeable to Income Tax, 138; and responsible to what extent, *ib.*; and when not chargeable, *ib. et seq.*
FALSE CLAIM TO ABATEMENT.—(*Income Tax*).—(*See* ABATEMENT).
FALSE CLAIM.—(*Penal Code*).—(*See* JUSTICE, OFFENCES AGAINST).
as to, in Court of Justice, 333.
FALSE COMMITMENT AND FALSE IMPRISONMENT.—(*Penal Code*) (*See* JUSTICE, OFFENCES AGAINST)
as to, by public servant, 339.
FALSE CRIMINAL CHARGE.—(*Penal Code*).—(*See* JUSTICE, OFFENCES AGAINST.
as to making, 334.
FALSE DEPOSITION —(*Income Tax*).—(*See* FALSITY).
offence of making, and how punishable, 192.
FALSE DOCUMENT.—(*Penal Code*).
terms explained, 415.
FALSE EVIDENCE.—(*Penal Code*).—(*See* CERTIFICATE, DECLARATION, JUSTICE, OFFENCES AGAINST).
chapter on, 325 *et seq.*
giving of, defined, 328.
fabricated, defined, 329.
as to punishment of, when given or fabricated in judicial proceeding, 329 and in other case, *ib.*; and if intended to obtain conviction of capital offence, 330; and an innocent person be executed in consequence, *ib.*; or to obtain conviction of offence not capital, *ib*; punishment for using or attempting to use, 331.
FALSE INFORMATION.—(*Penal Code*).—(*See* JUSTICE, OFFENCES AGAINST).
FALSE IMPRISONMENT.—(*Penal Code*).—*See* WRONGFUL RESTRAINTS WRONGFUL CONFINEMENT.
FALSE LIGHTS, MARKS AND BUOYS.—(*Penal Code*).—*See* PUBLIC HEALTH, SAFETY, &c.
as to setting up, 356.
FALSE MARK.—(*Penal Code*).
as to using, on package, goods, &c. 421.
FALSE MEASURES.—(*Penal Code*).—*See* WEIGHTS AND MEASURES.
FALSE PERSONATION.—(*Penal Code*).—*See* JUSTICE, OFFENCES AGAINST.
as to, in legal proceeding, 333.
of juror or assessor, 337.
of public servant, 316.
by wearing military garb, 305.

FALSE PROPERTY MARK.—(*Penal Code*).
term explained, 421.
as to making or using, 422.
FALSE RETURNS.—(*Income Tax*).—*See* FALSITY.
offence of making, 193; and how punishable, 192.
FALSE RUMORS.—(*Penal Code*).
as to circulation of, to cause mutiny, 431; or induce offence against the State, *ib.*; or against public tranquillity, *ib.*
FALSE TRADE MARK.—(*Penal Code*).
term explained, 421.
as to making or using, *ib.*
FALSE WEIGHING MACHINES.—(*Penal Code*).—*See* WEIGHTS AND MEASURES.
FALSE WEIGHTS.—(*Penal Code*) *See* WEIGHTS AND MEASURES.
FALSITY.—(*Income Tax*).
accessories to, how punishable, 193.
FINDER OF PROPERTY.—(*Penal Code*).
as to misappropriation by, 326.
FINE.—(*Penal Code*).
general rules respecting, 276 *et seq.*
must not be excessive, if amount is left to discretion, *ib.*
not extinguished by death, 277.
leviable within six years, *ib.*
FIRE, COMBUSTIBLES, AND EXPLOSIVE SUBSTANCES.—(*Penal Code*).—*See* PUBLIC HEALTH, SAFETY, &c.
as to negligent conduct in respect to, 357.
mischief by, to amount 100 Rs, 144; or with intent to destroy house &c, *ib.*; or to decked vessel, *ib.*
FOOD MEAT AND DRINK.—(*Penal Code*).
as to adulteration of, and sale of noxious, 355.
FORCE.—(*Penal Code*).—*See* CRIMINAL FORCE.
as to negligence in regard to, 355.
FORCED LABOR.—(*Penal Code*).
as to punishment for compelling, 385.
employing minor under 16 for prostitution or unlawful purpose, *ib.*
FOREIGN BILLS.
liable to Stamp duties, 215; and what to be deemed, 216.
holder of, to affix Stamp on, *ib.*
FOREIGN COIN.—(*Penal Code*).—*See* COIN. MINTS.
FORFEITURE OF PROPERTY.—(*Penal Code*).
general rules respecting, 276.
sentence of, to extend to after acquired property when, *ib.*
as to a ward of, for every capital offence, 276.
FORGED DOCUMENT.—(*Penal Code*) *See* FORGERY, DOCUMENT.
term explained, 415.
FORGERY.—(*Penal Code*).
definition of, *ib.*
as to punishment of, 417; if of records, or of birth, baptism, or marriage, or other public register, 418; if of valuable security, will, authority to adopt, other authority, acquittance, or receipt, *ib.* if with intent to cheat, *ib.*; or to harm reputation, 418.
if of seals, plate, and other instruments used for, *ib.*; and counterfeiting genuine ones, 419.
FORGERY.
as to powers of Sessions Judge to pass final sentence on conviction of, 6.
FORGERY.—(*Income Tax*).
offence of, 191; and how punishable, *ib.*
FRAUDULENT DEEDS AND DISPOSITION OF PROPERTY.—(*Penal Code*).
sections on, 402 *et seq.*
as to punishment of, 403.
assisting in, *ib.*
FRAUDULENTLY.—(*Penal Code*).
term explained, 268.

FRAUD.—(*Income Tax*).
effect of, on composition for Income Tax, 137.
FRAUDULENT REMOVAL OR DISPOSITION OF PROPERTY.—(*Income Tax*).
offence of, and how punishable, 196
FRENCH COLONIES.—*See* EMIGRATION.
FURRUCKABAD.
Laws relating to execution of decrees &c. in, repealed, 36.
GAIN.—(*Penal Code*).—*See* WRONGFUL GAIN.
GANG ROBBERY.—(*Penal Code*).—*See* DACOITY. THUG.
as to punishment of, 394.
GAS COMPANIES.—(*Income Tax*).
assessable, 150
GENDER.—(*Penal Conde*).—*See* HE.
GENERAL EXCEPTIONS.—(*Penal Code*).
chapter on, 279 *et seq.*
how to be applied, 264.
as to act done under mistake or mistaken belief, 280.
by a judge judicially, *ib*
in execution of judicial order, *ib.*
by accident or misfortune merely, 281.
without criminal intention, though likely to cause harm, *ib.*
by a child under 7, *ib.*; or above 7 and under 12 but of poor understanding, *ib. et seq*; or by insane person, 282; or by intoxicated person, *ib.*
GENERAL EXPLANATIONS.—(*Penal Code*).—*See* WORDS AND TERMS INTERPRETED.
chapter of, 263 *et seq.*
as to words of gender, 265.
and of number, *ib.*
GOOD FAITH.—(*Penal Code*).
defined, 273.
GOVERNMENT.—(*Penal Code*).
meaning of term, 266.
GOVERNMENT OF INDIA.—(*Penal Code*).
meaning of term, 265.
GOVERNMENT STAMPS.—(*Penal Code*).—*See* STAMPS.
GOVERNMENT SECURITIES.—(*Hindoos and Mahometans*).
how to be disposed of in case of, disputed succession, 77.
GOVERNMENT SECURITIES.—(*Income Tax*).
regulations respecting, 125 *et seq.*
GOVERNOR GENERAL.—
Act to continue absence of, from Council, 43, and Act to provide for exercise of certain powers of, during his absence, 261.
GOVERNOR GENERAL.—(*Penal Code*).
as to intimidation of, to prevent official freedom of action, 300.
GOVERNORS.—(*Penal Code*).
as to intimidation of, to prevent official freedom of action, 300.
GRATIFICATION.—(*Penal Code*).—*See* PUBLIC SERVANT. JUSTICE, OFFENCES AGAINST.
meaning of, 313.
as to public servant taking, 312.
taking as inducement to use corrupt influence with public servant, 312; or to use personal influence with, 313; and as to punishment, *ib.*
GRIEVOUS HURT.—(*Penal Code*).—*See* HURT TO THE PERSON.
what to be deemed, 368.
as to punishment for, 372.
GUARDIAN.—(*Income Tax*).
chargeable, 138; and responsible to what extent, *ib.*
HARBOURING OFFENDER.—(*Penal Code*).—*See* JUSTICE, OFFENCES AGAINST.
as to harbouring offender, or any one to screen him from justice, 335; or escaped convict, or State prisoner, 303; or deserter, 304.

HEALTH.—(*Penal Code*).—*See* PUBLIC HEALTH, &c.;
HOLIDAYS OF LAW COURTS.
Act to amend law respecting, 474.
HOMICIDE.—(*Penal Code*).
excused by sudden provocation, when, 363; and when not, *ib.*
mistake or accident, 281.
HOMICIDE, CULPABLE.—(*Penal Code*).—*See* MISCARRIAGE.
what constitutes it, 361.
what intention essential to it, *ib.*
when it is murder, 362; when not, 362.
as to attempts to commit, 366.
when caused by criminal miscarriage, or attempted miscarriage, 368.
HORSE.—(*Penal Code*).
as to mischief to, 406.
HOUSE-BREAKING.—(*Penal Code*).
section on, 409 *et seq.*
definition of, *ib.*
as to punishment of, 411; if with intent to commit offence punishable with imprisonment, *ib.*; or with preparation for injury to person, *ib.*; and grievous hurt be caused, 413; or grievous hurt or murder be attempted, *ib.*
HOUSE-BREAKING BY NIGHT.—(*Penal Code*).
definition of, 409.
as to punishment of, 411; if with intent to commit offence punishable with imprisonment, *ib.*; and theft be committed, *ib.*; or with preparation for injury to person, *ib.*; and grievous hurt be caused, 413; or grievous hurt or murder be attempted, *ib.*
HOUSE TRESPASS.—(*Penal Code*).—*See* LURKING H. T.
sections on, 408 *et seq.*
definition of, *ib.*
as to punishment of, 41; if with intent to commit capital offence, *ib.*; or transportable offence, *ib.*; or minor offence, *ib*; or when committed with preparation for injury to person, *ib.*
HUMAN BODY, OFFENCES AFFECTING.—(*Penal Code*).
chapter on, 360 *et seq.*
as to offences affecting life, *ib.*
causing miscarriage, injury to unborn children, exposure of infants and concealment of births, 367 *et seq.*
hurt, 369 *et seq.*
wrongful restraint and confinement, 375.
criminal force and assault, 378.
kidnapping, abduction, slavery, and forced labor, 382.
rape, 385.
unnatural offences, 386.
HURT TO THE PERSON.—(*Penal Code*).
as to different kinds of hurt, 370 *et seq.*
what shall be "grievous" hurt, *ib.*
voluntarily caused, what, 371.
responsibility for it, *ib.*
caused by weapon of offence, fire, poison, corrosive or explosive substance, substance inhaled, swallowed, or received into the blood, or by animal, *ib. et seq*; or when caused for purpose of extortion, or extorting confession, 372, 373.
by administering poison or drug, *ib.*
to public servant, 374.
caused on grave and sudden provocation, *ib.*
danger of, from rash and negligent act, 375.
caused by rash and negligent act, *ib.*
HUSBAND OF MARRIED WOMAN.—(*Income Tax*).
chargeable for wife's income when, 142.
HUSBAND.—*See* ADULTERY. MARRIAGE. RAPE.
not punishable for harbouring wife, 305, 335, 338.

ILLEGAL.—(*Penal Code*).
term explained, 272
IMPORTS AND EXPORTS.—*See Customs Duties.*
IMPRISONMENT.—(*Penal Code*).
general rules respecting punishment of, 276.
where by existing law seven years may be awarded, transportation may be awarded instead, *ib.*
scale of, when awarded in default of payment of fine, 276.
INCOME TAX.
act for imposing, 120; and for amending same, 246.
what rates payable for, 120.
rules respecting assessment, collection and payment of, 121.
to be assessed on fractional part of 100 Rs. *ib.*
assessment to be for current year, *ib.*; to commence from 1st August yearly, *ib.*
to be under direction of Governments, general and local, 122.
existing revenue revision to be used for purposes of, *ib.*
when to be charged on non-residents, *ib.*
Commissioners for, to be appointed in presidency towns, 123, how many, *ib.*; and on what remuneration, *ib.* only for one year, *ib.*; renewable, *ib.*
two to be quorum, *ib.*
Collector of land revenue to have management of, in mofussil, 124, and to make assessments to; *ib.*
by whom to be assessed on government securities, 125.
on civil salaries, 126.
on military pay, *ib.*
on marine pay, *ib.*
on pensions, 127.
as to mode of assessment of, 128 *et seq.*
making returns for, *ib. et seq.*
a special return for, 130. *See* RETURNS.
to be assessed on abstract of returns, 132.
as to surcharges of, 132, 134.
revision of assessment, 133.
collections of, *ib. et seq.*
papers relating to, not to be inspected, 134.
professional agents not to be heard on, 135.
as to compositions for, *ib.*
trustees, guardians and other representatives how brought under, 138 *et seq.*
as to relief from double assessment, 139.
how to be assessed to companies, 141.
revenue paying lands, to be assessed at what rate, 143.
co-shares in profits of land, how to be assessed to, 144.
owners being occupiers to be assessed as if rack-rented, 146.
mortgagees in possession assessable to, *ib.*
deductions in, only to be allowed according to Act, *ib.*
how to be assessed, if rent paid in kind, 147.
to be assessed on unoccupied houses or lands, *ib.*; but may be remitted, *ib.*
profits, every description of, assessable to, 149.
in what district or place chargeable, 158
assessable when by punchayet, 167, subject to what appeal, 169.
as to exemption from, 170.
rate of, if income under 500 Rs. a year, *ib.*
not chargeable, on military pay under that of Captain, 173; nor on naval pay not above Lieutenant, *ib.*; nor on allowances for travelling expenses, *ib.*
nor on ryots paying less rent than 600 Rs. a year, 174; charitable and religious foundations may be exempted for, *ib.*
as to relief from double assessment, 176.
payment and collection of, 177.
recovery of, by process, 181 *et seq.*
application of, 188 *et seq.*

INCOME TAX ASSESSORS.
regulations respecting their appointment, 124.
INCOME TAX COMMISSION.
who to be president of, 123, and regulations respecting their proceedings, *ib. et seq.*
INCOME TAX EX-OFFICIO AND SPECIAL ASSESSORS.
regulations respecting their functions, 128 *et seq.*
INCOME TAX OFFICERS.
respecting their appointment, 122 *et seq*
to be sworn to secrecy, 127.
assessable as others, 135, and not to have a voice on their own case, *ib.*
offences of, 190 ; and how punishable, *ib.*
INCOME FROM ABROAD.—(*Income Tax*)
regulations respecting chargeability of, 155.
INDEMNITY.—*See* ACTS OF INDEMNITY.
INDIAN NAVY —(*Penal Code*)
Act relating to, not to be superseded by Penal Code, 263
INDIAN PENAL CODE.—*See* PENAL CODE
INDIGO COMMISSION.—*See* COMMISSION OF ENQUIRY.
INDIGO CONTRACTS
Act to enforce the fulfilment of, 29 ; for 6 months, 32.
INDIGO PLANTERS AND MANUFACTURERS.—(*Income Tax*).
assessable to Income Tax, 150.
INFANCY.—(*Penal Code*).
its periods, 282 ; and when an excuse, 282.
INFANT INFANTICIDE.—(*Penal Code*). *See* CHILD.
INFANT.—(*Income Tax*).
guardian or trustee of, chargeable, 138.
INFECTIOUS DISEASE.—(*Penal Code*).
as to negligently spreading, 354.
maliciously spreading, *ib.*
breach of regulations for prevention of spreading of, *ib.*
quarantine rules, *ib.*
INFORMATION.—(*Penal Code*).—*See* JUSTICE, OFFENCES AGAINST.
INJURY.—(*Penal Code*).
term explained, 272.
INSANE.—(*Penal Code*).
not criminally responsible, 282.
treatment of, in good faith, though injurious, no offence, 283.
consent of, null, 284.
as to right of defence against, 287.
INSANITY.—(*Penal Code*).
an excuse when, 282.
INSTIGATE.—(*Penal Code*).
term explained, 292.
INSUBORDINATION.—(*Penal Code*).—*See* ARMY AND NAVY
INSULT, CRIMINAL.—(*Penal Code*).
as to punishment of, when to provoke breach of the peace, 433; when offensive to the modesty of any woman, 432.
INSURANCE.—*See* LIFE INSURANCE
INSURRECTION.—(*Penal Code*)
an offence against the State, 301.
as to punishment of, *ib.*
INTEREST, ANNUITIES AND DIVIDENDS.—PAYABLE OUT OF THE REVENUE.
liable to Income Tax, 161 ; and how and by whom to be charged, *ib. et seq.*
INTERPRETATION OF WORDS.—(*Penal Code*).—*See* WORDS AND TERMS INTERPRETED.
INTIMIDATION, CRIMINAL.—(*Penal Code*).
definition of, 433
as to punishment of, 434; when by threat of committing offence, *ib.* ; when by anonymous communication, *ib.* ; when committed by working on superstitious belief and fears, 434.

INTIMIDATION, CRIMINAL.—(*Income Tax*).
offences of, 192; and how punishable, *ib.*
INTOXICATION.—(*Penal Code*).
an excuse when and when not, 282.
IRRIGATION.—(*Penal Code*).
as to injury to, 406.
IRRIGATION COMPANIES.—(*Income Tax*).
assessable, 150.
JALOUN.—*See* KOONCH AND CALPEE.
JAMSETJEE JEJEEBHOY.—*See* SIR JAMSETJEE JEJEEBHOY.
JOINT STOCK BANKS.—*See* BANKING COMPANIES.
JUDGE.—(*Penal Code*).
different descriptions of persons to be deemed, 266.
JUSTICE, COURT OF.—(*Penal Code*).
term explained, 266.
JUSTICE, OFFENCES AGAINST.—(*Penal Code*).
chapter on, 325 *et seq.*
by giving false evidence, 328.
fabricating false evidence, 329; and as to punishment of, *ib.*; or if to procure a conviction of a capital offence, 330; or other offence, *ib.*
using false evidence, 331.
issuing false certificate' *ib.*; or making false statement, *ib.*
suppression of evidence of offence to screen offender, *ib.*; and as to punishment, if the offence was capital, 332; or transportable, *ib.*; or of minor degree, *ib.*
not giving information of offence, *ib.*; and punishment, 330.
giving false information, *ib.*; and as to punishment of, *ib.*
secreting or destroying document usable as evidence, *ib.*; and as to punishment for, 332.
false personation, 333; and acts done under, and punishment for, *ib.*; fraudulent removal, secretal, concealment, transfer or delivery of property, *ib*; with intent to defeat judicial process, *ib*; and punishment, *ib.*; and as to accepting, receiving, or claiming an interest in aid of such fraud, *ib*; and punishment, *ib.*
fraudulent decree or order, 334; and as to causing or suffering such decree or order, *ib.*; and punishment, *ib.*; and as to accepting or obtaining, *ib.*; and punishment, 334.
false suit or claim, *ib.*; and as to punishment for bringing, *ib.*
criminal charge, *ib.*; and as to offence of, and punishment for, *ib. et seq.*
harbouring or concealing offender, 335; and as to offence of, and punishment for, *ib.*; if the offence was capital, *ib*; or of a minor degree, 335.
acceptance or negotiating for reward or inducement for screening offender, *ib. et seq.*; and as to punishment, if principal offence were capital, *ib.*; or of minor degree, *ib.*
as to compounding offence, 335; and punishment, if offence were capital, 336; or of minor degree, 336.
in regard to recovering stolen property, &c. 337; and as to reward for recovery of, *ib.*; and punishment for giving, &c., if offender be not brought to justice, &c. 337.
harbouring offender, 337; and as to punishment, if the offence were capital, *ib.*; or of minor degree, *ib.*
violation of condition of remission of punishment, 340; and as to punishment for, *ib.*; intentional insult to judicial officer, *ib.*; and as to punishment for, *ib.*
personation of juror or assessor, *ib.*
By Public Servants.—*See* PUBLIC SERVANTS.
by knowingly disobeying direction of law, 338.
with intent to save offender from justice, *ib.*
framing record or other writing incorrectly, *ib.*; with intent to cause injury, or to save offender, *ib.*

JUSTICE, OFFENCES AGAINST.—(*Continued*).
by making corrupt or malicious report, decision, &c. *ib.*; and as to punishment for, *ib.*
corruptly or maliciously committing for trial or to prison, and as to punishment for, 339
omitting to arrest or suffering to escape, *ib.*; and as to punishment for, in case of party not under sentence, *ib.*; or in case of offender under sentence of death, or minor specified sentence, 340.
negligently permitting escape of convict, *ib.*; and as to punishment for, *ib.*
KIDNAPPING.—(*Penal Code*).—*See* ABDUCTION.
what it is, 382; and as to different kinds of, *ib.*
as to, in regard to minors and insanes, 383.
of child under 10, to steal from it, *ib.*
punishment of, *ib. et seq.*; when for purpose of murder, wrongful confinement, *ib.*; or of subjecting to hurt or slavery, 384.
aiding by concealing, *ib.*
KOONCH AND CALPEE.—(*N. W. Provinces*).
Act to bring them under the same regulations as the Zillah of Jaloun, 91 *et seq.*
LAND-MARKS.—(*Penal Code*).
as to mischief to, 407.
LAND, PROFITS OF —(*Income Tax*).
how to be assessed to income tax, 143.
all persons in receipt of, to be chargeable to income tax, 144.
co-sharers of, how to be charged to income tax, *ib.*
LAW.—(*Penal Code*) —*See* SPECIAL LAW.
LAWFUL GUARDIAN.—(*Penal Code*).
who to be deemed, 383.
LAW PROCEEDINGS.
chargeable with what Stamps, 221, 240, but not in Supreme Court, 221.
LAWS, AMENDED, EXTENDED, REPEALED.—*See* ACTS OF THE LEGISLATIVE COUNCIL. ACTS OF PARLIAMENT. REGULATIONS.
LEGAL REMUNERATION.—(*Penal Code*).
what to be deemed in case of public servant, 313.
LEGISLATIVE COUNCIL —*See* ACTS OF THE LEGISLATIVE COUNCIL.
LETTERS OF ADMINISTRATION TO NATIVES.—(*Mofussil*).—*See* DEBTS, &c. CERTIFICATE, PROBATE.
not to avail after grant of Certificate, 79.
if granted in Supreme Court to avail only for collection of debts, *ib.*
LICENSE TO CARRY ARMS.
for what persons necessary, 101; and to be in what form, 102; consequence of carrying arms without, 103.
LIBEL —(*Penal Code*).—*See* DEFAMATION
LIEUTENANT GOVERNOR.—(*Penal Code*).
as to intimidation of, to prevent official freedom of action, 301.
LIFE.—(*Penal Code*).—*See* HUMAN BODY.
what the term denotes, 272.
as to offences affecting, 360 *et seq.*
LIFE INSURANCE.—(*Income Tax*).
allowance to be made for, 174; up to what amount, 175.
LIGHT-HOUSES AND SEA-MARKS.—(*Penal Code*).
as to mischief to, 406.
LIMITATION OF ACTIONS.
altered from Act 10, 1859, 477; what for bringing actions, *ib.*; and for revival of such, &c., *ib.*
LIMITED LIABILITY.
Act to extend the principle of, to Joint Stock Banks, 11.
LOCAL LAW.—(*Penal Code*).
meaning of term defined, 272.
not superseded by Penal Code, 263.

LODGER.—(*Income Tax*).
as to returns of, 130.
LUNACY.—(*Penal Code*).—*See* INSANITY.
LUNATIC.—(*Penal Code*).—*See* INSANE.
LURKING HOUSE-TRESPASS.—(*Penal Code*).—*See* HOUSE-TRESPASS.
sections on, 409, 412 *et seq.*
definition of, 409.
as to punishment of, 410; if with intent to commit offence punishable with imprisonment, *ib.*; or committed with preparation for injury to person, *ib.*
LURKING HOUSE-TRESPASS, BY NIGHT.—(*Penal Code*).
sections on, 409. 412 *et seq.*
definition of, 409.
as to punishment of, 412; if with intent to commit offence punishable with imprisonment, *ib.*; or theft, *ib.*; or with preparation for injury to person, 413; or if murder or grievous hurt is attempted, *ib.*
MACHINERY.—(*Penal Code*).—*See* PUBLIC HEALTH, SAFETY, &c.
as to negligence in regard to, 358.
MAGISTRATE.—(*Penal Code*).
included in term Judge, when, 266.
MAN.—(*Penal Code*).
word denotes male of any age, 265.
MANAGEMENT OF INCOME TAX.
regulations respecting, 122.
MANUFACTURE OF CANNON, &c.—*See* ARMS AND AMMUNITION.
regulations respecting, 95 *et seq.*
MANUFACTURERS.—(*Income Tax*).
assessable, 150.
MARKS.—(*Penal Code*).—*See* TRADE-MARKS. PROPERTY-MARKS.
MARRIAGE, OFFENCES RELATING TO.—(*Penal Code*).—*See* ADULTERY BIGAMY.
chapter on, 426.
as to deceiving a woman into false belief of marriage having taken place, 427.
second marriage, pending first, after seven years' absence of one of the parties, *ib.*
MARRIAGES —(*Scotch Church*).
may be performed by ordained ministers, though not chaplains, 70.
MARRIED WOMAN.—(*Penal Code*).
as to enticing her away, 426.
adultery with, 427.
MARRIED WOMAN.—(*Income Tax*).
trustee of, chargeable to income tax, 138.
when personally chargeable, 142; and when not, *ib.*
MAGAZON.—*See* SIR JAMSETJEE JIJEEBHOY.
MEASURES.—(*Penal Code*).—*See* WEIGHTS AND MEASURES.
MEDICINES.—(*Penal Code*). *See* DRUGS.
MEMBERS OF COUNCIL —(*Penal Code*).
as to intimidation of, to prevent official freedom of action, 301.
MERCHANT.—(*Penal Code*).
as to criminal breach of trust by, 398.
MILITARY AUDITORS.—(*Income Tax*).
to be ex-officio income tax assessors, 126; for assessing military pay and allowances, *ib.*
MILITARY STORES.
government may prohibit the transport of, 100; and breach of prohibition how punishable, *ib.*; but prohibition not to extend to transport of small quantities for private use, *ib.*
MINING COMPANIES.—(*Income Tax*).
assessable, 150.
MINT.—(*Penal Code*).
offences relating to, 344 *et seq.*

MINT. (*Continued*).
as to servant of, doing act in deterioration of issue of coin, 347; and taking out any mint-tool or instrument, *ib.*
MISAPPROPRIATION OF PROPERTY, DISHONEST.—(*Penal Code*).
defined and described, 395.
what is not a, *ib.*
as to, of property found, 396; and punishment for, *ib.*
MISCARRIAGE.—(*Penal Code*).
as to causing, 368.
caused by woman herself, *ib.*
intent to cause, ending fatally, *ib.*
MISCELLANEOUS MATTERS.—(*Income Tax*).
provisions respecting, 201 *et seq.*
MISCHIEF —(*Penal Code*).
sections on, 403 *et seq.*
definition of, 404.
by what acts, may be committed, *ib. et seq.*
as to punishment of, 405; if to extent of 50 Rupees, *ib.*; if to animal worth 10 Rupees, *ib.*; if to camel, horse, mule, buffalo, bull, cow or ox, 406; if to water supply, *ib.*; if to road, bridge, river, or navigable channel, *ib.*; if to drainage, *ib.*; if to light, house and sea-marks, *ib.*; if to land-marks, 406.
by fire, or explosive substance, 407; to cause damage to property *ib.*; or to any building used as place of worship or for human dwelling, *ib.*
to any decked vessel, *ib.*; by fire or explosive substance, *ib.*
by running vessel aground, for theft, 408.
with preparation for personal violence, *ib.*
MISTAKE.—(*Penal Code*). *See* GENERAL EXCEPTION.
an excuse when and when not, 286.
MOFUSSIL SMALL CAUSES.
special appeal abolished, in specified cases, 259; but specified questions may be referred to Sudder, *ib.*
MOFUSSIL SMALL CAUSE COURTS.
Act for establishment of, 254.
as to their constitution, *ib. et seq*; and limits of territorial jurisdiction, 255.
suits what, cognizable by, *ib.*; in respect of what persons, *ib.*
to have a seal and be subordinate to sudder, *ib.*
to have exclusive jurisdiction, *ib. et seq.*; saving existing jurisdictions, 256.
as to place of holding, *ib.*; and time of holding, *ib.*
procedure of, *ib.*
written pleading necessary only in plaint, *ib. et seq.*
may grant immediate execution, 257; against what property, *ib.*
decision of, to be final, *ib.*; except when, *ib.*
may state case for opinion of Sudder on specified class of cases, *ib.*; and give decision contingent on Sudder's opinion, 258.
general rules for, may be made by Sudder, *ib.*
as to procedure of, generally, 259.
MONTH.—(*Penal Code*).
how to be reckoned, 273.
MORALS.—(*Penal Code*).
chapter on, 352.
MORTGAGEES IN POSSESSION.—(*Income Tax*).
assessable, 147.
MOVEABLE PROPERTY.—(*Penal Code*).
meaning of term, 268.
MULE.—(*Penal Code*).
as to mischief to, 406.
MUNICIPAL COMMISSIONERS.—(*Penal Code*).
included in term public servant, 268.

MUNICIPAL COMMISSIONERS.—(*Calcutta*).
bye-laws of, to cease on disallowance, 39; and how to be published, *ib.*
MURDER.—(*Penal Code*).
culpable homicide when, 302; and when not, *ib. et seq.*
as to acts done with intent to murder, 363 *et seq.*
punishment of, 366.
when committed by life convict, *ib.*
MUTINIES.
act to indemnify officers for specified illegalities during, 208.
MUTINY ACT.—(*Penal Code*).
provisions of, not to be superseded by Penal Code, 263.
MUTINY.—(*Penal Code*).—*See* ABETMENT.
as to abetting of, and its punishment, 41; and punishment of abetment if mutiny be committed, 304.
NABOB OF THE CARNATIC.—*See* CARNATIC, NABOB OF.
NATAL.—*See* EMIGRATION.
NATIVE ARMY.
Act to amend articles of war, of, 9 *et seq.*
soldiers of, to forfeit pay, &c. when under confinement, 11.
NATIVE LABOURERS.—*See* EMIGRATION.
NAVIGABLE CHANNELS.—(*Penal Code*).
as to mischief to, 406.
NAVIGATION.—(*Penal Code*).
as to rash or negligent, to danger of life, or risk of hurt, 357.
obstruction of, *ib.*
mischief to, by injury, &c., to light-house, 406; or by false lights, 354, 406.
NAVY, OFFENCES RELATING TO.—(*Penal Code*). *See* ARMY AND NAVY.
chapter on, 303 *et seq.*; but not to apply to persons subject to articles of war, 305.
acts for government of, not affected by Code, 263.
NIZAMUT ADAWLUT.—(*Bengal*).
reference to, by Sessions Judge, dispensed with in certain cases, 5 *et seq.*
NON-RESIDENT IN INDIA.—(*Income Tax*).
when and how chargeable, 138; and where, 122.
NUISANCE.—(*Penal Code*).—*See* COMMON NUISANCE.
NUMBERS AND LETTERS.—(*Income Tax*).
as to payment under, 178
OATH.—(*Penal Code*).
term to include solemn affirmation and declaration used for proof, 273.
OATH.—(*Income Tax*).
to be taken by income tax officers, 127.
OATH OF SECRECY.—(*Income Tax*).
to be taken by income tax officers, 127; before whom, 128.
OBSCENE BOOKS AND SONGS.—(*Penal Code*).
as to sale, distribution, or exhibition of, 356, or having for those purposes, 358.
singing, reciting or uttering, *ib.*
OBSTRUCTION.—(*Penal Code*).
as to, of public servant in his duty, 322.
by man to prevent his own apprehension, 338; or another person's apprehension, 339.
as to, of seizure of property, 321; or sale of property by public officer, *ib.*
to a public way or navigation, 357.
OBSTRUCTION OF OFFICERS.—(*Income Tax*).
offences of, and how punishable, 195.
OFFENCE.—(*Penal Code*).—*See* GENERAL EXCEPTIONS.
meaning of the word, 272.
what acts do not constitute by reason of general exception, 280 *et seq.*
OFFICERS.—(*Penal Code*).—*See* PUBLIC SERVANTS.
OMISSION.—(*Penal Code*).
included in term act, and singular noun to be understood collectively, 270.

OUDE, KING OF.
Act to provide for execution of process within premises occupied by, 36.
OWNERS, IN OCCUPATION.—(*Income Tax*).
assessable at amount equal to rack-rent, 146.
OX.—(*Penal Code*).
as to mischief to, 406
PARLIAMENT, ACTS OF.—*See* ACTS OF PARLIAMENT.
PARTNERS.—(*Income Tax*).
regulations respecting chargeability of, 153.
PASSENGERS BY SEA.
Act to amend the law relating to carriage of, 2.
expenses of picking them up at sea, to be defrayed, how, 3; and be a crown debt of the owners, &c. of the passenger ship, *ib. et seq.*
PAYMENT AND COLLECTION OF INCOME TAX.—(*Income Tax*).
Sections on, 177 *et seq.*; and as to payment according to numbers or letters, 178 *et seq.*
PEACE.—(*Penal Code*).
as to provoking breach of, by insult, 433.
PENAL CODE.
from what date to take effect, 262; and through what territory, 263; and shall apply to what persons, *ib.*; and what offences, *ib.*
to apply to servants of Government in foreign State, *ib.*
not to derogate from operation of Act of Parliament, or Mutiny Act, or Indian Navy Act, *ib.*
to be understood subject to general exceptions, 264.
words of, once explained to be always understood in same sense, *ib.*
PENAL SERVITUDE.—(*Penal Code*).
to be awarded to Europeans and Americans instead of transportation, 275.
PENALTIES.—(*Income Tax*).
regulations respecting, 189 *et seq.* 197.
in respect of receipt and collection, 190.
service of notices and false pretences, *ib.*
illegal entry into female apartments, *ib.*
illegal rescue or removal of distress, 191.
forgery, *ib.*
PENSION PAYMASTERS.—(*Income Tax*).
to be ex-officio assessors, 127; for assessing military pay and allowances, *ib*
PENSIONS OUT OF REVENUE.—(*Income Tax*).
regulations respecting assessment of, 162.
PERJURY.—(*Penal Code*). *See* OATH. FALSE EVIDENCE. JUSTICE, OFFENCES AGAINST.
PERJURY AND SUBORNATION OF.—(*Bengal*).
as to powers of Sessions Judge to pass final sentence on conviction of, 6.
PERSON.—(*Penal Code*).
what the word includes, 265.
kinds of, liable under Code, 263.
PERSON, OFFENCES AGAINST.—(*Penal Code*).—*See* HUMAN BODY.
PERSONATION.—(*Penal Code*).—*See* CHEATING. JUSTICE, OFFENCES AGAINST.
as to false, by wearing military garb, 305.
of public servant, 333.
for purpose of suit, *ib.*
of juror or assessor, 342.
PLAN OR MAP.—(*Penal Code*).
included under term document, 269.
PLATE.—(*Penal Code*).
as to making, &c., plate for forged impressions of valuable security, 419; or of property or trade-mark, 423.
POISON.—(*Penal Code*).
as to, negligence in regard to, 357.
causing hurt by, 264, 372.

PORT-DUES.—
Bassein.
what to be taken in port of Bassein, 71.
not payable by vessels driven into port by weather or sea damage, 71.
not payable more than once in 60 days, *ib.*
Madras.
how realizable, if ship left without paying them, 44.
master evading payment of, liable to fine, 45.
not chargeable with, if vessel leaves in 48 hours, *ib* ; and chargeable, with only half, if within 7 days, *ib.*
POSSESSION.—(*Penal Code*).
what constitutes, 269.
POWER OF ATTORNEY.—(*Penal Code*).
included under term document, 269.
PRESIDENCY.—(*Penal Code*).
what the term denotes, 266.
PRESIDENCY TOWNS.
Police Acts for, 459.
PRESIDENCY TOWNS AND STRAITS SETTLEMENTS.—(*Income Tax*).
special provisions for, 124, 134, 167, 186.
income tax commissioners to be appointed for, 123; and a special Commissioner as referee in certain cases, 124.
as to returns in, 134.
PREVIOUS CONVICTION.—(*Penal Code*).
as to effect of in specified cases, 279.
PRINTING.—(*Penal Code*).
as to defamation and other offences by, 432.
PRIVATE DEFENCE.—(*Penal Code*).—*See* RIGHT OF PRIVATE DEFENCE.
PROBATE OF WILL OF NATIVES BEYOND THE PRESIDENCY TOWNS.—*See* CERTIFICATE, DEBTS, LETTERS OF ADMINISTRATION.
not to avail after grant of certificate, 78; but bona fide payments under to be good, *ib.*
if granted in Supreme Court, to avail only for collection of debts, 79.
PROFESSION.—(*Income Tax*).
every kind of, assessable, 151.
profits of, how to be computed, 152.
partners, how to make returns and be assessed, 153.
PROFESSIONAL AGENTS.—(*Income Tax*).
not to be heard on appeals, 135.
PROFESSIONS AND INNOMINATE EMPLOYMENTS.—(*Income Tax*).
regulations respecting chargeability of, 151.
PROFIT FROM PROPERTY ABROAD.—(*Income Tax*).
assessable, 155.
PROFITS OF TRADE.—(*Income Tax*).
every description of assessable, 149
how to be computed for taxation, 150.
PROFITS OF UNCERTAIN VALUE.—(*Income Tax*).
how to be assessed, 155.
PROPERTY MARKS.—(*Penal Code*)—*See* TRADE MARKS.
sections on, 420 *et seq.*
definition of, 421.
false property mark, definition of, 422; and as to punishment for using, *ib.*
as to counterfeiting, already appropriated by other person, *ib.*; or be public servant, *ib.*
dies or plates for counterfeiting, 423.
selling with counterfeit, *ib.*
removing or defacing, 424.
PROPERTY, OFFENCES AGAINST.—(*Penal Code*).
chapter on, 386 *et seq.*
sections as to theft.—*See* THEFT, *ib.*
extortion,—*See* EXTORTION, 90.

PROPERTY, OFFENCES AGAINST, (*Continued*).—
robbery and dacoity.—*See* ROBBERY, DACOITY. 392.
criminal misappropriation of.—*See* MISAPPROPRIATION, 395 *et seq.*
breach of trust.—*See* TRUST, 397.
receiving stolen.—*See* RECEIVING STOLEN PROPERTY, 399 *et seq.*
cheating.—*See* CHEATING, 400.
fraudulent deeds and dispositions of, 402.
mischief to.—*See* MISCHIEF, 403.
criminal trespass.—*See* TRESPASS, 406.
PROTECTOR OF EMIGRANTS IN FRENCH COLONIES.
who to be, 445; and their duty, 447 *et seq.*
PROSTITUTION.—(*Penal Code*).—*See* FORCED LABOR.
as to, of minor under 16, 385.
PROVOCATION.—(*Penal Code*).
an excuse for homicide, when, 363.
hurt, when, 372; and grievous hurt, when, *ib.*; and for assault, when, 381.
as to, by personal insult, 433.
PUBLIC.—(*Penal Code*)
what the word includes, 265.
PUBLICATION. LIBELLOUS.—(*Penal Code*).—*See* DEFAMATION.
PUBLIC HEALTH. SAFETY. CONVENIENCE. DECENCY AND MORALS. OFFENCES RELATING TO.—(*Penal Code*).
chapter on, 352 *et seq.*
as to common nuisances, 354.
spread of infection of disease, *ib.*
quarantine rules, *ib.*
adulteration of food and sale of noxious food, 355; ditto ditto of drugs, *ib.*
sale of spurious drugs, *ib.*; and issue of wrong drugs from a dispensary, 356.
corrupting water, *ib.*
vitiating the atmosphere, *ib.*
rash and dangerous driving on public way, *ib.*
navigation, *ib.*
exhibiting false lights, buoys, &c. to mislead navigation, *ib.*
overloading passenger vessels, *ib*
dangerous nuisances on land or water high-way, 357.
negligence in regard to property, *ib.*; or to poisons, *ib.*; or fire and combustibles, *ib.*; or in regard to explosive substance, 355; or any machinery, *ib.*; or in pulling down and repairing buildings, *ib.*; or in regard to dangerous animals, *ib.*
obscene books, 359 *et seq.*
PUBLIC JUSTICE, OFFENCES AGAINST.—(*Penal Code*).—*See* JUSTICE, &c.
chapter on, 323 *et seq.*
PUBLIC OFFICES AND EMPLOYMENTS.—(*Income Tax*).
what assessable to income tax, 163.
profits or income of, to be assessed on audit, *ib.*
PUBLIC SERVANT.—(*Penal Code*).
who come under this denomination, 266 *et seq.*
PUBLIC SERVANTS, OFFENCES BY OR RELATING TO.—(*Penal Code*).
chapter on, 311 *et seq.*
PUBLIC SERVANTS, OFFENCES BY.—(*Penal Code*).
by accepting gratification as a motive or reward, 312.
abetment of corrupt influence by, 314.
accepting value without consideration, *ib.*
acting contrary to law, from malice, 315.
falsely preparing official document, *ib.*
engaging in trade, contrary to law, 316.
purchasing property, contrary to law, *ib.*
criminal breach of trust by, 397.

PUBLIC SERVANTS, OFFENCES RELATING TO.—(*Penal Code*).
as to acting as, by false personation, 316.
accepting inducement to corrupt, 313.
use corrupt influence with, *ib.*
by pretending to hold office, and personating officer, 316; and as to punishment for, *ib.*
wearing garb or token, to make believe he is a public servant, *ib.*; and as to punishment for, *ib.*
PUBLIC TRANQUILLITY.—(*Penal Code*).
chapter on offences against, 305 *et seq.*
as to unlawful assemblies, 307.
members of unlawful assembly, *ib.*
punishment of unlawful assemblies, 307.
rioting, what shall constitute it, *ib.*
punishment of, *ib.*; what if rioter be armed, *ib.*
hiring member for unlawful assembly, *ib.*
knowingly joining or continuing in unlawful assembly after order to disperse, 309.
assaulting public officer engaged in suppressing riot or affray, *ib.*
giving provocation for riot, *ib.*
responsibility of owner or occupier of land on which unlawful assembly is held, *ib.*; and of agent, 310.
harbouring member of unlawful assembly, *ib.*
affray, defined and how punishable, 311.
disturbing by false rumours, 433.
PUBLIC WORKS.
Act to provide for summary decision of disputes between workmen and employers on, 23 *et seq.*; but to apply only to places to which it is extended by executive government, 25.
PUBLIC WORKS.—(*Income Tax*).
one per cent income tax to be paid for, 121.
PUNCHAYET, MEMBER OF.—(*Penal Code*).
included in term Judge, when, and when not, 266.
PUNCHAYET.—(*Income Tax*).
as to appointment of, 167.
appeals from appointment by, 169.
PUNISHMENTS.—(*Income Tax*).
double not to be inflicted, 197.
PUNISHMENT.—(*Penal Code*).—*See* DEATH. PENAL SERVITUDE. TRANSPORTATION. FINE. FORFEITURE. IMPRISONMENT.
chapter respecting, 273 *et seq.*
of what kinds they may be, 274.
general rules respecting, *ib. et seq.*
as to award of, if offence be double or multifarious, 279.
in case of second and subsequent, as to commutation of, by Government, 274; conviction under chapters 12 and 17, 279.
QUARANTINE.—(*Penal Code*).
as to disobedience to rules of, 354.
QUEEN.—(*Penal Code*).
means the reigning sovereign, 265.
RAILWAY COMPANIES.—(*Income Tax*).
assessable, 150.
RAILWAYS.
Act to provide for summary decision of disputes between workmen and employers on, 23.
government may establish electric lines on, 18.
Act to amend Act 18, 1854 relating to, 475; and offences under, where cognizable, 476.
electric telegraph lines on, may be established by government, 18.
RAPE.—(*Penal Code*).
definition of, 385.
what is sufficient to constitute it, *ib.*

RAPE, (*Continued*).
as to, where consent has been given, 386.
when by a husband on his wife, *ib.*
punishment of it, *ib.*
RAPE.—*See* SESSIONS JUDGE.
RATES OF INCOME TAX.—*See* INCOME TAX.
REASON TO BELIEVE.—(*Penal Code*).
what is the meaning of the term, 264.
RECEIVER.—(*Income Tax*).—*See* COURT RECEIVERS AND MANAGERS.
where and how chargeable to Income Tax, 138; and responsible to what extent, *ib.*; and when not chargeable, *ib. et seq.*
RECEIVING STOLEN PROPERTY.—(*Penal Code*).
chapter on, 399.
definition of, *ib.*
as to punishment of, *ib.*
when received from dacoit, *ib.*
habitually dealing in, 400.
assisting in concealing, *ib.*
RECORD OF COURT OF JUSTICE.—(*Penal Code*).
as to forgery of, 418.
REFUSALS.—(*Income Tax*).
to appear before officers, 194, 195.
make returns, 195.
RECOVERY OF INCOME TAX.
sections on, 181 *et seq.*
REGISTER OF BIRTH, BAPTISM, MARRIAGE, OR BURIAL.—(*Penal Code*).
as to forgery of, 418.
REGISTRATION.—*See* SOCIETY, LITERARY, &c.
REGULATIONS.—Amended, extended, repealed.
Bengal.
1803, 2, s. 8, (Furrackabad) repealed, 36.
1807, 2, (Sessions Judge) modified, 5, 6.
" 17, (Sessions Judge) modified, *ib.*
1817, 17, s. 6, c. 3, and s. 9, c. 3, (Sessions Judge) repealed, 5; and s. 9, modified, *ib.*
1826, 12, (Stamp Duties) repealed, 214.
1827, 12, July 1827, (Stamp Duties) repealed, *ib.*
1829, 10, (Stamp Duties) repealed, *ib.*
1832, 6, s. 4, (Sessions Judge) modified, 5.
Bombay.
1827, 18, }
1828, 3, }
1828, 6, } (Stamp Duties) repealed, 214.
1830, 8, }
1831, 3, }
Madras.
1816, 13, (Stamp Duties) repealed, 214.
RELIGION, OFFENCES RELATING TO.—(*Penal Code*).—*See* OBSCENE BOOKS, PRINTS, &c.
chapter on, 359 *et seq.*
as to injuries to places of worship and sacred objects, 360.
disturbing religious assemblies, *ib.*
wounding or insulting religious feelings, *ib.*
REMOVAL OF DEBTOR FROM DISTRICT.—(*Income Tax*).
offence of, and how punishable, 196.
REPUTATION.—(*Penal Code*).—*See* DEFAMATION.
as to intent to harm, by forgery, 418.
RESCUE.—(*Penal Code*).
as to aiding in, of prisoner, 302; and aiding in concealment of, 337.
RETENTION.—(*Penal Code*).—*See* WRONGFUL RETENTION.
RETURNED CONVICT.—(*Penal Code*).
as to punishment of, for escape, 339.

RETURNS.—(*Income Tax*).
how to be made, 129; may be made special, 130.
duties of assessor, in regard to, 131.
as to understatement in, *ib.*
persons omitting to make, *ib.*
abstract of, to be prepared by assessor, *ib.*; and sent to Collector, *ib.*
assessment to be made on, 132.
when and how to be kept, 134.
only one to be required when several are jointly liable, 139.
REVENUE SURVEY.—(*Madras*).—*See* BOUNDARY MARKS.
RIDING.—(*Penal Code*).
as to rash or negligent, 356.
RIGOROUS IMPRISONMENT.—(*Penal Code*).
what it is, 274.
and general rules respecting, *ib.*
RIGHT OF PRIVATE DEFENCE.—(*Penal Code*).
section on, 286 *et seq.*
as to act done in exercise of, 287.
what it extends to,—and some limitations on it, 288.
not annulled by legal irresponsibility of party against whom it is exercised, *ib.*
as to its exercise in defence of life, notwithstanding consequences to third person, 290.
its extent in defence of the body, 289 *et seq.*; and its commencement and cessation in that behalf, 290.
its extent in defence of property, 289, 290 *et seq.*; and its commencement and cessation in that behalf, 239.
when an excuse for homicide, *ib.*
RIOT. RIOTING.—(*Penal Code*).—*See* AFFRAY. UNLAWFUL ASSEMBLY.
what shall constitute, 308.
as to punishment of, *ib.*
giving provocation to, 309.
RIVERS. NAVIGABLE CHANNELS.—(*Penal Code*).
as to mischief to, 406.
ROAD, PUBLIC.—(*Penal Code*).
as to mischief to, *ib.*
ROADS AND WAYS.—(*Penal Code*).
as to rash and dangerous driving on, 356.
ROBBERY.—(*Penal Code*).—*See* DACOITY.
section on, *ib.*
definition of, 392.
when it is dacoity, 393.
as to punishment of, generally, *ib.*; or when committed on highway, between sun-rise and sun-set, *ib.*; or when accompanied with hurt, *ib.*
habitual association for commission of, 394.
attempts to commit, *ib.*
ROBBERY AND DACOITY.—(*Penal Code*).—*See* ROBBERY. DACOITY.
RULES UNDER SCHEDULES.—(*Income Tax*).
Schedule I. 143 *et seq.*
II. 149 *et seq.*
III. 161 *et seq.*
IV. 162 *et seq.*
indiscriminately applicable, how, 202.
SAFETY, OFFENCES AGAINST THE PUBLIC.—(*Penal Code*).
chapter on, 352.
by rash or negligent conduct, causing danger, 375; causing hurt, *ib.*
causing grievous hurt, *ib.*
SAINT VINCENT, COLONY OF.—*See* EMIGRATION.
SALARIES AND PENSIONS PAYABLE OUT OF REVENUE.—(*Income Tax*).
to be assessed on audit, 163, and regulations respecting, 125 *et seq.*

SALARIES, PRIVATE, IN COMPANIES.—(*Income Tax*).
Regulations respecting assessment of, 164.
SALT-DUTY, ON IMPORTATION INTO N. W. P.
Act to empower G G. in C. to increase its rate, 1 ; not exceeding 3 rs. per maund *ib* ; except eastward of Allahabad, *ib*.
existing rate of, repealed, *ib*.
SCHEDULES.—(*Income Tax*).
Schedule I. 143 *et seq*.
II. 149 *et seq*.
III. 161 *et seq*.
IV. 162 *et seq*.
SCHEDULES.—(*Stamp Act*).
Schedule A. for Deeds, &c. 228.
B. for Law Proceedings, 240.
SCOTCH CHURCH MARRIAGES.
may be performed by ordained ministers though not chaplains, 70.
SEAL.—(*Penal Code*)
as to making, for forged impressions on valuable security or will, 419, or to commit other forgery, *ib*. ; or for making false trade or property mark, 423.
SEA-MARKS.—(*Penal Code*).
as to mischief to, 406.
SECRECY, VIOLATION OF —(*Income Tax*).
how punishable, 195.
SECTION OF THE CODE.—(*Penal Code*).
meaning of the term, 273.
SEDUCTION.
as to kidnapping or abducting woman for, 384.
SERVANT.—(*Penal Code*)
possession of, is master's possession, 269.
as to theft by, 389.
as to criminal breach of trust by, 398.
SERVANTS OF THE QUEEN —(*Penal Code*).—*See* PUBLIC SERVANTS.
who are denoted by this term, 265.
SERVICE, CONTRACTS OF
as to criminal breach of, 424.
punishment of breach, if for personal service on voyage or journey, *ib*.
if to attend on or supply wants of insane or infirm person, 425.
SESSIONS JUDGES.
Act to empower them to pass final sentence in certain cases, 4 *et seq*.
may sentence for rape to 7 years' imprisonment, 5 ; also for penal offence under Beng. R. 6, 1832, *ib* ; also for perjury and forgery, 6.
SHIP.—(*Penal Code*).—*See* VESSEL, DECKED.
SHOOTING.—(*Penal Code*)
as to causing hurt by, 371.
SILK MANUFACTURERS AND HOLDERS OF SILK FILATURES.—(*Income Tax*).
Assessable, 150.
SIR JAMSETJEE JEJEEBHOY.
Act for settling property on the heir to the baronetcy, 46.
SITTING DHIRNA.—(*Penal Code*).—*See* CRIMINAL INTIMIDATION.
SLAVES.—(*Penal Code*).
as to dealing in, 384.
habitual trading in, *ib*.
SLIGHT HARM.—(*Penal Code*).
when not an offence, 286.
SOCIETIES, CORPORATE AND NOT (*Income Tax*).—*See* COMPANIES.
SOCIETIES, LITERARY, SCIENTIFIC AND CHARITABLE.
Act for registration of, 57.
what societies may be registered, 63.

SOCIETIES, LITERARY, &c. *(Continued).*
as to registration of old societies, 62.
number of members necessary for registration of, 57.
how to be registered, *ib.*
fee to be paid for registration of, 58.
managers of, to be registered *ib.*; and property, *ib.*
may sue and be sued how, *ib.*
judgment against, how to take effect, 59.
may make bye-laws, *ib.*
as to criminal offences by member of 60.
purposes of, may be altered, *ib.*
how to be dissolved, *ib.*
who to be deemed members of, 61.
SOLEMN AFFIRMATION.—*(Penal Code).*
included in term oath, 273.
SOLITARY CONFINEMENT.—*(Penal Code).*
general rules respecting, 278; and sentence of, how to be carried out, *ib.*
SONGS, OBSCENE.—*(Penal Code).*—*See* OBSCENE BOOKS, PRINTS AND SONGS.
SPECIAL APPEALS.
abolished in cases cognizable by small cause courts, 259, but special case may be stated in lieu, *ib.*; and shall be dealt with how, 260.
SPECIAL INCOME TAX COMMISSIONERS
regulations respecting their appointment, 124.
SPECIAL LAW —*(Penal Code).*
meaning of term, 272.
not affected by Code, 263.
SPIRITS, DISTILLERY-MANUFACTURED.—*(Bengal).*
duty on, what rate of, may be levied, 67
may be removed without payment of duty on what conditions, *ib.*
to pay import duty, when, 68
form of bond, on removal of, *ib.*
STABBING.—*(Penal Code).*
as to causing hurt by, 371, and grievous hurt by, 372.
STAMPS.—*(Penal Code).*
offences relating to, 349 *et seq.*
as to counterfeiting of, *ib.*
having materials, &c., for counterfeiting, 350; or instruments, *ib.*
sale of counterfeit, 350; or having, or using counterfeit, *ib.*
preparing for second use used stamp papers, 351.
using used stamp, *ib.*
erasing marks of cancellation from used stamp, *ib.*
STAMP ACT PROSECUTION.
to be only by government officer, 227.
STAMP DUTIES.—*See* PENALTIES.
Act to consolidate and amend the law relating to, 213 *et seq.*; and act to amend Act 36, 1860, (of temporary operation), 475,
Schedule of, on deeds and writings, 228 *et seq.*
on foreign bills, what, 215; and what are foreign bills, 216.
payable into Court when, 219.
money not recoverable beyond amount to which duty paid is applicable, 220 *et seq*
(Penalties).
by whom to be borne, in respect of Bills, &c., 221.
schedule of, on law proceedings, 240 *et seq.*
rates of, may be locally lowered by G. G. in C., 221; and generally carried on certain instruments, *ib. et seq.*
in respect of Bills, P. Notes, Drafts, Cheques, 214.
for obliterating adhesive stamp, 215.
negotiating foreign bill without adhesive stamp, 216; or neglecting to cancel stamp, *ib.*
drawing sets of bills without stamp, 217.
using already used adhesive stamp, *ib.*

STAMP DUTIES (*Continued*).
(*Penalties*).
for making up deficiency of stamp, 218.
in regard to counterfeits, 226.
for inserting in deed less than the true consideration, 227.
to be prosecuted for, only by public officer, *ib.*
prosecution for, may be before the Magistrate, *ib.* except remedies for, *ib.* when, *ib.*

STAMPS.—*See* STAMP DUTIES.
to be in form prescribed by G. G. in C. 215.
for receipts, to be what, *ib.*
instrument without proper, not to be received in evidence, 217 *et seq.*
as to impressment of, to make up deficiency of, 218; within what time, *ib.*; and on what terms, *ib. et seq.*
on receipts, to be given by receiver, 221.
not to be sold by unlicensed vendor, 224.
removal of, how to be obtained, if damaged or spoiled, 225 *et seq.*
as to penalty, in regard to counterfeit, 226.

STAMPS, DAMAGED OR SPOILED.
regulations as to return of, to Stamp office, 225 *et seq.*

STATE, OFFENCES AGAINST.—(*Penal Code*).
chapter on, 299 *et seq.*
different kinds of, *ib.*
as to waging war, or proposing to, 300.
concealing existence of design to wage war, 301.
force or violence on G. G. or G. or M. of Council, *ib.*
war on, or depredation in territory of ally, 302.
permissive and negligent escape of state prisoner, *ib.*
aiding escape of state prisoner, 303.

STATE PRISONERS.—(*Penal Code*).
as to escape of, 301; by negligence, *ib.*; by permission and aid given to, 303.

STEAM NAVIGATION COMPANIES.—(*Income Tax*).
assessable, 150.

ST. KITTS.—*See* EMIGRATION.

STOLEN PROPERTY.—(*Penal Code*).
definition of, 399.
as to dishonestly receiving, *ib.*; and if stolen by dacoity, *ib.*

SUBORNATION OF PERJURY.—(*Bengal*).—*See* PERJURY.

SUCCESSIONS, HINDOO AND MAHOMETAN.
if disputed, trustees to be appointed to take charge of Government securities, 77.

SUDDER COURTS.
to be constituted of 2 or more judges, 7.
how to proceed on application for execution, 7.
mofussil Small Cause Courts to be subordinate to, 255.
full bench necessary to decide Small Cause Court cases, 258; and may hear parties, *ib.*
how to dispose of Small Cause Court cases, *ib.*
may make rules for Small Cause Courts, *ib.*

SUGAR PLANTERS.—(*Income Tax*).
assessable, 150.

SUICIDE.—(*Penal Code*).
as to abetment of, by infant, insane, delirious, or intoxicated person, 364; or generally, *ib.*
attempts to commit, 367.

SULPHUR.
may be seized by order of Government, 99, except when kept for medicinal purposes, 100.

SURCHARGES TO INCOME TAX.
to be made by whom and when, 132, 134.

SURCHARGES TO INCOME TAX, *(Continued)*.
notice of, to be given, *ib.*; and as to procedure, if objected to, *ib.* *et seq.*
to be made for unauthorized deductions, 147.
SURVEY.—(*Madras*).
may be made for purpose of establishing marks, 82 *et seq.*
owners and occupiers may be required to attend survey officer, 83.
officers of, may enter lands and have other powers, 89 *et seq.*
TEA COMPANIES.—(*Income Tax*).
assessable, 150.
TEA PLANTERS.—(*Income Tax*).
assessable, 150.
TELEGRAPHS.—*See* ELECTRIC TELEGRAPHS.
TEMPORARY RESIDENTS IN INDIA.—(*Income Tax*).
in what cases and where and how chargeable, 160.
THEFT.—(*Penal Code*).
sections on, 384 *et seq.*
definition of, 385.
thing attached to the earth, when and not subject of, *ib.*
as to punishment of, 387; or if committed in building, *ib.*; or by clerk or servant, *ib.*; or committed with preparation, *ib.*
THREATS.—(*Penal Code*).
offences committed under, when executed, 286.
as to, of injury to public servant, 322; and to deter from resort to public servant, 323.
THUG.—(*Penal Code*).
defined, 367.
as to punishment of, *ib.*
TOLLS.—*See* CALCUTTA CANAL.
TORTURE.—(*Penal Code*).—*See* HURT.
TRADE.—(*Income Tax*).
regulations respecting chargeability of, 150.
TRADE.—(*Penal Code*).
as to public servant engaging in, 316.
TRADE-MARKS.—(*Penal Code*).
sections on, 420 *et seq.*
definition of, 421.
false, definition of, *ib.*; and as to punishment for using, *ib.*
as to counterfeiting, already appropriated by other person, 422; or by public servant, 422.
dies or plates for counterfeiting, 423.
selling goods with false, *ib.*
making false marks on packages, *ib.*
removing or defacing, 424.
TRANQUILLITY.—(*Penal Code*).—*See* PUBLIC TRANQUILLITY.
TRANSPORTATION.—(*Penal Code*).
general rules respecting, 274 *et seq.*
Americans and Europeans not to be sentenced to, 275.
as to award of, where by existing law seven years' imprisonment is appointed, 275.
TRANSPORTATION OF CONVICTS.
Act relating to, 210.
place of, not to be mentioned in sentence, *ib.*
to be appointed by G G. in C., *ib.*
TRESPASS, CRIMINAL.—(*Penal Code*).—*See* HOUSE-BREAKING, HOUSE-TRESPASS, LURKING HOUSE-TRESPASS, MISCHIEF.
sections on, 408 *et seq.*
definition of, 409.
as to punishment of, 411; if with intent to commit mischief, and any lock or fastening is broken open, 413.
TRUST, CRIMINAL BREACH OF.—(*Penal Code*).
sections on, 397 *et seq.*
definition of, 397.

TRUST, CRIMINAL BREACH OF, (*Continued*).
as to punishment of, 398; when by carrier, wharfinger, warehousekeeper, *ib.*; when by clerk or servant, *ib.*; when by public servant, banker, merchant, factor, broker, attorney, or agent, *ib.*
TRUSTEES AND SPECIAL CLASSES.—(*Income Tax*).
regulations respecting, 138; and responsible to what extent, *ib.*; and when not chargeable, *ib. et seq.*
UNBORN CHILD.—(*Penal Code*).
as to preventing birth of alive, 368.
acts in regard to, tantamount to culpable homicide, *ib. et seq.*
UNIVERSITIES.
Act to empower them to establish new degrees, 456.
UNLAWFUL ASSEMBLY.—(*Penal Code*).
what shall be, 307.
as to members of, who shall be, and their punishment, *ib. et seq.*
hiring members for, 308.
joining, *ib.*; and continuing in, 309.
responsibility of owner, &c., of land on which it is held, *ib.*; and his agent, *ib.*
harbouring members of, *ib.*
UNNATURAL OFFENCES.—(*Penal Code*).
defined, 386.
as to punishment of, *ib.*
VACATIONS.—*See* HOLIDAYS.
VALUER.—(*Income Tax*).
may be appointed to value for taxation, 148.
costs of, how to be paid, *ib.*
VALUABLE SECURITY.—(*Penal Code*).—*See* FORGERY.
what the term denotes, 270.
as to forgery of, 418.
having possession of forged, 419.
fraudulent destruction of, 420.
VEHICLES.—(*Penal Code*).—*See* ROADS.
VENDERS OF STAMPS.
to have license and schedules stuck up in shop, 222.
on sale of Stamp to endorse it, *ib.*; under penalty for false endorsement, *ib.*
bound to sell on tender of price, *ib.*; under penalty for taking any value above, 223.
subject to fine for selling called in stamps, *ib.*; and for any breach of his bond, *ib.*
to deliver up his stamps at end of license, *ib. et seq.*; and on his death, his representative to do so, 224; and in default, his sureties liable, *ib.*
VESSEL.—(*Penal Code*).
what is denoted by word, 272.
as to mischief to decked, 407.
by fire or explosive substance, *ib.*
by running aground for theft, *ib.*
dangerously navigating, 356.
overloading, when conveying passengers, *ib.*
VOLUNTARILY.—(*Penal Code*).
meaning of term, 272.
VOLUNTEER CORPS.
exempted from the Arms Act, 101.
WAGING WAR.—(*Penal Code*).—*See* STATE, OFFENCES AGAINST.
WAR.—(*Penal Code*).—*See* STATE, OFFENCES AGAINST.
WARDS, COURT OF.—(*Income Tax*).—*See* COURTS OF WARDS.
WARE-HOUSEMAN.—(*Penal Code*).
as to criminal breach of trust by, 398.
WATER.—(*Penal Code*).
as to corrupting of, 356.
mischief to supply of, 406.

WEIGHTS AND MEASURES, OFFENCES RELATING TO.—(*Penal Code*).
chapter on, 349 *et seq.*
as to using false ones, 352.
weighing instrument, *ib.*
having false weighing instrument, or false weights or measures, *ib.*
making, selling or disposing of, *ib.*
WHARFINGER.—(*Penal Code*).
as to criminal breach of trust by, 398.
WIFE.—(*Penal Code*).
not punishable for harbouring husband, 303, 335, 338.
WILL.—(*Penal Code*).
what the term denotes, 270.
WOMAN.—(*Penal Code*).
word explained, 265.
as to words or gesture to insult the modesty of, 135.
WORDS AND TERMS INTERPRETED.—(*Penal Code*).
abduction, 338.
abet, abettor, 292.
act, 270.
adultery, 427.
affirmation, 273.
affray, to commit an, 311.
aid, 292.
animal, 272.
arbitrator, 267.
assault, 380.
assembly, *See* UNLAWFUL ASSEMBLY.
assessor, 267.
association, 265.
believe, reason to, 268.
benefit of a person, 285.
breach of trust, *See* CRIMINAL BREACH OF TRUST.
cheat, 400; cheating by personation, 401.
child, its ages distinguished, 282.
coin, 344.
collector, 266.
commissioned officer in Queen's service, 267.
consent, 284.
counterfeit, 269.
covenanted servant, 266.
court of justice, *ib.*
criminal force, 376, 377.
intimidation, 433.
breach of trust, 397.
trespass, 409.
culpable homicide, 361.
dacoity, 393.
death, 272.
deception, 401.
declaration, 273.
defame, 428.
dishonestly, 268.
document, 269; false document, 413 *et seq.*; making false document, *ib.*
escape of prisoner, 303.
evidence, *See* FALSE EVIDENCE.
executive government, 266.
expecting to be a public servant, 313.
extortion, 388.
fabrication of false evidence, 329.
faith, *See* GOOD FAITH.
false evidence, 328.
false document, 415; 418, making of false document, *ib.*; false mark, 421; false property mark, 422; false trade mark, *ib.*

WORDS AND TERMS INTERPRETED, (*Continued*).
forgery, 415, 418; forged document, *ib.*
fraudulently, 268.
gain, *See* WRONGFUL GAIN, *ib.*
gender, *See* HE.
good faith, 273.
government, 266; *See* EXECUTIVE GOVERNMENT.
government of India, 265.
gratification, 313.
grievous hurt, 370.
guardian, *See* LAWFUL GUARDIAN.
he, 265.
house-breaking, 409.
house-breaking by night, 411.
homicide, culpable, 361.
house-trespass, 407; lurking house-trespass, *ib.*; lurking house-trespass by night, *ib.*
hurt, 370.
illegal, 272.
indorsement on bill of exchange, 270.
injury, 272.
instigate, 292.
intimidation, 433.
judge, 266.
judicial proceeding, stage of, 337.
kidnap, 382.
law, *See* LOCAL LAW. SPECIAL LAW.
lawful guardian, 383.
legally bound, 272.
legal remuneration, 313.
life, 272.
local law, *ib.*
loss, *See* WRONGFUL LOSS.
lurking house-trespass, 409.
lurking house-trespass by night, *ib.*
magistrate, 266.
member of unlawful assembly, 307.
mischief, 403.
month, 273.
motive or reward, 313.
moveable property, 268.
municipal commissioner, *ib.*
murder, 362.
nuisance, 352.
oath, 273.
offence, 272.
officer, *See* PUBLIC SERVANT.
omission, 270.
person, 265.
personation, cheating by, 399.
possession, 269.
possession of servant, &c. *ib.*
presidency, 266.
property in possession, 269.
property, stolen, 397.
property mark, 421; false property mark, 422.
public, 266.
public servant, 267.
punchayet, member of, 266.
queen, 265.
rape, 385.
reason to believe, 268.
reward for doing, 313.

WORDS, &c. (*Continued*).
rioting, 308.
robbery, 390.
section (*e. g.* of code,) 273.
servant of the queen, 265.
slight harm, 286.
special law, 272.
stolen property, 397.
theft, 387.
thug, 367.
trade-mark, 421.
false trade-mark, *ib.*
trespass, criminal, 409.
trust, criminal breach of, 397.
unlawful assembly, 306.
unnatural offences, 386.
valuable security, 270.
vessel, 272.
voluntarily, *ib.*
voluntarily causing hurt and grievous hurt, 371.
will, 270.
woman, 265.
wrongful gain, 268.
wrongful loss, *ib.*
wrongful retention, *ib.*
year, 273.
WORKMAN —(*Penal Code*).
as to breach of contract by, 424.
WORKMEN AND EMPLOYERS ON PUBLIC WORKS.
Act relating to disputes between, respecting wages, 22 *et seq.*
workmen when liable to fine for breach of contract, 24.
WORSHIP, PLACE OF —(*Penal Code*).
as to mischief to, 407.
WRECKED PASSENGERS, PICKED UP AT SEA.—*See* PASSENGERS.
may be forwarded by Governor or consular agent to place of destination, 3 ; at whose expense, 4 ; and subject to what limitation of expense, *ib.*
WRONGFUL CONFINEMENT.—(*Penal Code*).
what it is, 377.
as to punishment of it, if for 3 days, *ib.*; or ten days or more, *ib.* ; or after writ of liberation issued, 377 ; or to avoid discovery of party, *ib.*
for purpose of extortion of property, *ib.*; or of confession, *ib.*
WRONGFUL DETENTION.—(*Penal Code*).
WRONGFUL GAIN.—(*Penal Code*).
meaning of the term, 268, and including wrongful retention, *ib.*
WRONGFUL LOSS.—(*Penal Code*).
meaning of the term, and may be wrongful detention, *ib.*
WRONGFUL RESTRAINT.—(*Penal Code*). *See* WRONGFUL LOSS.
what it is, 376 *et seq.*
as to punishment of, *ib.*
WRONGFUL RETENTION.—(*Penal Code*).
YEAR.—(*Penal Code*).
to be computed according to the British Calendar, 272.

CALCUTTA :—PRINTED BY D'ROZARIO & CO. 8, TANK-SQUARE.